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BRITISH NORTH AMERICA ACTS
AND SELECTED STATUTES

1867-1962

THE FATHERS OF CONFEDERATION



DELEGATES TO THE CONFERENCE HELD AT QUEBEC, OCTOBER, 1864

- | | | | | | | |
|-----------------------|-------------|-----------------|-----------------|----------------|---------------|-----------------|
| H. Bernard, Secretary | W. A. Henry | E. Palmer | J. A. Macdonald | P. Mitchell | R. B. Dickey | W. H. Pope |
| W. H. Steeves | C. Fisher | G. Coles | J. C. Chapais | E. B. Chandler | G. E. Cartier | J. M. Johnston |
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| | | | | | | W. McDougall |
| | | | | | | T. D'Arcy McGee |
- (W. F. Howland, J. W. Ritchie and R. D. Wilmot attended the London Conference and are regarded as Fathers of Confederation)



BRITISH NORTH AMERICA ACTS AND SELECTED STATUTES

(Together with Pre-Confederation Statutes and Documents, a short Historical Review, a Chapter on Responsible Government and a Chapter on the Years Preceding Confederation; together also with many Acts and Orders in Council Relating to Canada and its Provinces; to which has been added the Letters Patent Constituting the Office of Governor General of Canada together with the Commission and Instructions, also the form of Commission of and Instructions to the Lieutenant-Governors. Abundant Notes accompany all these Statutes and Documents.)

1867-1962

Prepared and annotated

by

MAURICE OLLIVIER, Q.C., LL.D., F.R.S.C.

Parliamentary Counsel

House of Commons

Ottawa

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PART I

**HISTORICAL REVIEW
WITH PRE-CONFEDERATION
STATUTES AND DOCUMENTS**

1759-1866

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HISTORICAL REVIEW WITH PRE-CONFEDERATION STATUTES AND DOCUMENTS

THE CAPITULATIONS AND THE MILITARY REGIME: 1759-1763

Canada became a colonial possession of Great Britain by the capitulations of Quebec (September 18, 1759) and of Montreal (September 8, 1760).⁽¹⁾ By these proclamations, the inhabitants of the colony were given certain restricted privileges, amongst others, the free exercise of their religion and were submitted to a tolerant military regime. The Governor, whenever possible to do so, did not fail, to rule according to the laws and customs of the inhabitants.

It is unnecessary to transcribe in this book the articles of the Capitulations except the following:

Article 6 of the Capitulation of Quebec.

De Ramsay, the King's Lieutenant had demanded:

"6. That the exercise of the Catholic, Apostolic and Roman religion shall be maintained and that safeguards shall be granted to the houses of the clergy and to the monasteries, particularly to his Lordship the Bishop of Quebec, who, animated with zeal for religion and charity for the people of his diocese desires to reside in it constantly, to exercise freely and with that decency which his character and the sacred offices of the Roman religion require, his episcopal authority in the town of Quebec, whenever he shall think proper, until the possession of Canada shall be decided by a treaty between their most Christian and Britannic Majesties."

The demand was granted in the following terms:

"The free exercise of the Roman religion is granted; likewise safeguards to all religious persons, as well as to the Bishop, who shall be at liberty to come and exercise, freely and with decency, the functions of his office, whenever he shall think proper, until the possession of Canada shall have been decided between their Britannic and Most Christian Majesties."

In the Capitulation of Montreal.

Article 27, as proposed and as accepted read as follows:—

(a) AS PROPOSED—

"27. The free exercise of the Catholic, Apostolic and Roman religion shall subsist entire, in such manner that all the states and the people of the towns and countries, places and distant posts,

(1) "French colonial possessions on the North American continent only gradually passed under the British flag and the introduction of British institutions was equally gradual. (Nova Scotia in 1713, Cape Breton in 1758, Citadel and district of Quebec in 1759, the remaining French possessions in 1760)", W. P. M. Kennedy. *The Constitution of Canada, 1534-1937*, p. 25.

shall continue to assemble in the churches and to frequent the sacraments as heretofore, without being molested in any manner, directly or indirectly. These people shall be obliged by the English government to pay their priests the tithes and all the taxes they were used to pay under the government of His Most Christian Majesty."

(b) AS GRANTED—

"Granted as to the free exercise of their religion; the obligation of paying the tithes to the priests will depend on the King's pleasure."

Article 28 was granted as proposed, viz.—

"28. The Chapter, priests, curates and Missionaries shall continue, with an entire liberty, their exercise and functions of cures in the parishes of the towns and countries."

"All the communities, and all the priests, shall preserve their moveables, the property and revenues of the Seignories and other estates which they possess in the colony of what nature soever they be; and the same estates shall be preserved in their privileges, rights, honours and exemptions."

Article 37 (which was granted as to property of companies and private persons, but subject so that if the French Sovereign "has any share in it, that must become the property of the King" of Great Britain), was as follows:—

"37. The Lords of Manors, the Military and Civil Officers, the Canadians as well in the towns as in the country, the French, settled or trading in the whole extent of the colony of Canada, and all other persons whatsoever, shall preserve the entire peaceable property and possession of the goods, noble and ignoble, moveable and immoveable, merchandises, furs, and other effects, even their ships; they shall not be touched, nor the least damage done to them, on any pretence whatever. They shall have liberty to keep, let or sell them, as well to the French as to the British; to take away the produce of them in bills of exchange, furs, specie or other returns, whenever they shall judge proper to go to France, paying their freights, as in the twenty-sixth Article" (viz. 'on the same footing as the British would pay it'). "They shall also have the furs which are in the posts above, and which belong to them, and may be on the way to Montreal; and for this purpose they shall have leave to send, this year or the next, canoes fitted out to fetch such of the said furs as shall have remained in those posts."

Article 41, was proposed as follows:—

"41. The French, Canadians and Acadians, of what state and condition soever, who shall remain in the colony, shall not be forced to take arms against his Most Christian Majesty or his allies, directly or indirectly, on any occasion whatsoever; the British Government shall only require of them an exact neutrality."

The proposal was answered as follows:—

"They become subjects of the King."

Article 42, was proposed as follows:—

"42. The French and Canadians shall continue to be governed according to the custom of Paris and the laws and usages established for this country, and they shall not be subject to any imposts than those which were established under the French Dominions."

The proposal was answered as follows:—

“Answered by the preceding articles, and particularly by the last.” (The answers to ‘the preceding articles’ are these—To Article 38—‘The King is to dispose of his ancient subjects’; (the Acadians) ‘in the meantime they shall enjoy the same privileges as the Canadians,’ and Article 41—‘They become the subjects of the King.’ In the result, therefore, the future legal system of Canada was left where by English law it was,—in the hands of the conquering sovereign of England, to leave it as he found it or to change it at his will, but so that at least with relation to matters as between subject and subject, the ancient laws of the colony continued to apply to the King’s new British subjects until the King’s will with respect to them should be expressed.)

Article 46 was proposed and granted as follows:—

“46. The inhabitants and merchants shall enjoy all the privileges of trade, under the same favours and conditions granted to the subjects of His Britannic Majesty, as well in the countries above as the interior of the colony.”

THE TREATY OF PARIS

(February 10th, 1763)

By the Peace Treaty which was signed at the conclusion of the Seven Years’ War the French possessions of North America were formally ceded to Great Britain. The Treaty which was concluded between His Britannic Majesty, the King of France and the King of Spain confirmed in Article 4 the liberty of the Catholic religion and the rights of the inhabitants as to their property.

“4. His Most Christian Majesty renounces all pretensions which he has heretofore formed or might have formed to Nova Scotia or Acadie in all its parts and guaranties the whole to it, and with all its dependencies, to the King of Great Britain: Moreover, his Most Christian Majesty cedes and guaranties to his said Britannick Majesty, in full right, Canada, with all its dependencies, as well as the Island of Cape Breton and all the other islands and coasts in the gulph and river of St. Lawrence, and, in general, everything that depends on the said countries, lands, islands and coasts, with the sovereignty, property, possession and all rights acquired by treaty or otherwise, which the Most Christian King and the Crown of France have had till now over the said countries, lands, islands, places, coasts and their inhabitants. . . . His Britannick Majesty on his side, agrees to grant the liberty of the Catholick religion to the inhabitants of Canada: he will in consequence give the most precise and most effectual orders that his new Roman Catholick subjects may profess the worship of their religion according to the rites of the Romish Church, as far as the laws of Great Britain permit. His Britannick Majesty farther agrees, that the French inhabitants or other who had been subjects of the Most Christian King in Canada, may retire with all safety and Freedom whenever they shall think proper, and may sell their estates, provided it be to the subjects of his Britannick Majesty, and bring away their effects as well as their persons without being restrained in their emigration, under any pretence whatsoever, except that of debts or of criminal prosecutions. The term limited

for this emigration shall be fixed to the space of eighteen months, to be computed from the day of the exchange of the ratification of the present treaty.”⁽²⁾

THE ROYAL PROCLAMATION

(7th October, 1763)

This Proclamation which abolished French law in Canada “gave Quebec its first civil government under British rule”.⁽³⁾ It established four new distinct and separate Governments of which only one was in Canada, that of Quebec.⁽⁴⁾ The proclamation further refers to an administrative outline as follows:

“And whereas it will greatly contribute to the speedy settling our said new Governments, that our loving subjects should be informed of our Paternal care, for the security of the Liberties and Properties of those who are and shall become Inhabitants thereof, We have thought fit to publish and declare, by this Our Proclamation, that We have, in the Letters Patent under our Great Seal of Great Britain, by which the said Governments are constituted, given express Power and Direction to our Governors of our Said Colonies respectively, that so soon as the state and circumstances of the said Colonies will admit thereof, they shall, with the Advice and Consent of the Members of our Council, summon and call General Assemblies within the said Governments respectively, in such Manner and Form as is used and directed in those Colonies and Provinces in America which are under our immediate Government; and We have also given Power to the said Governors, with the consent of our Said Councils, and the Representatives of the People, so to be summoned as aforesaid, to make, constitute, and ordain Laws, Statutes, and Ordinances for the Public Peace, Welfare and good Government of our said Colonies, and of the People and Inhabitants thereof, as near as may be agreeable to the Laws of England, and under such Regulations and restrictions as are used in other Colonies; and in the mean time, and until such Assemblies can be called as aforesaid, all Persons Inhabiting in or resorting to our Said Colonies may confide in our Royal Protection for the Enjoyment of the Benefit of the Laws of our Realm of England; for which Purpose We have given Power under our Great Seal to the Governors of our said Colonies respectively to erect and constitute, with the Advice of our said Councils respectively, Courts of Judicature and public Justice within our said Colonies for hearing and determining all Causes, as well Criminal as Civil, according to Law and Equity, and as near as may be agreeable to the Laws of England, with Liberty to all Persons who may think themselves aggrieved by the Sentences of such Courts, in all Civil Cases, to appeal, under

(2) By Article 20 of the same treaty the King of France cedes and guarantees in full right to his Britannic Majesty “Florida with Fort St. Augustin, and the Bay of Pensacola, as well as all that Spain possesses on the continent of North America to the East or to the South East of the River Mississippi”. His Britannic Majesty agrees, on his side, in precisely the same terms as those of Article 4, to grant to the inhabitants of the countries so ceded the liberty of the Catholic religion and precisely the same rights as to their property and as to their removal.

(3) Kennedy, *The Constitution of Canada*, p. 33.

(4) The proclamation recites the fact of the annexation of the Islands of St.-John’s and Cape Breton (or Isle Royale) to the Government of Nova Scotia.

the usual Limitations and Restrictions, to Us in our Privy Council.”⁽⁵⁾

The doctrine recognized and admitted at that period is better summarized by an eminent constitutional authority⁽⁶⁾ who writes:

“As the conqueror was not bound in international law even to spare the lives of those who were overcome by him, so he need not accord them any civil rights whatever, and what he did accord was his to grant and to take away. Thence followed the doctrine that the Crown has uncontrolled legislative authority over the conquered or ceded Colony.”

The application of the above principles had caused the Proclamation not only to substitute the common law of England to the *Coutume de Paris*, which had been in force in the Colony but also to create courts where English was to be the only official language. The Royal Instructions to Governor Murray which followed two months later instructed him to nominate and establish a Council which was to meet when deemed necessary and expedient and on the advice of the Council to summon and call a General Assembly.

As the members of the Council and assembly had to subscribe the Declaration in the “Act for preventing Dangers which may happen from Popish Recusants” no Assembly was called during that period. This however had been expected and explained the following contradictions in the Instructions.

“11. And whereas it is directed, by Our Commission to You under Our Great Seal, that so soon as the Situation and Circumstances of Our said Province will admit thereof, you shall with the Advice of Our Council, summon and call a General Assembly of the Freeholders in Our said Province; You are therefore, as soon as the more pressing Affairs of Government will allow to give all possible attention to the carrying this important Object into Execution: But, as it may be impracticable for the present to form such an Establishment, You are in the mean time to make such Rules and Regulations, by the Advice of Our said Council, as shall appear to be necessary for the Peace, Order and good Government of Our said Province.”

“28. And whereas We have stipulated, by the late Definitive Treaty of Peace concluded at Paris the 10th Day of February, 1763, to grant the Liberty of the Catholick Religion to the Inhabitants of Canada, and that We will consequently give the most precise and most effectual Orders, that Our new Roman Catholick Subjects in that Province may profess the Worship of their Religion, according to the Rites of the Romish Church, as far as the Laws of Great Britain permit; It is therefore Our will and Pleasure, that you do, in all things regarding the said Inhabitants, conform with great Exactness to the Stipulations of the said Treaty in this respect.”

“29. You are, as soon as possible, to summon the Inhabitants to meet together, at such Time or Times, Place or Places, as you

(5) It was most unfortunate for the Colony of Quebec, that weak, ignorant, and interested Men, were sent over to carry the Proclamation into Execution, who expounded it in the most absurd Manner, oppressive and cruel to the last Degree to the Subjects, and entirely contrary to the Royal Intention. (The Earl of Hillsborough, Secretary of State for the Colonies, to Carleton, March 6th, 1768.)

(6) Keith, *Responsible Government in the Dominions*, Vol. 1, p. 2.

shall find most convenient, in order to take the Oath of Allegiance, and make and subscribe the Declaration of Abjuration mentioned in the aforesaid Act passed in the first Year of the Reign of King George the First, for the further Security of His Majesty's Person and Government, and the Succession of the Crown in the Heirs of the Late Princess Sophia, being Protestants, and for extinguishing the Hopes of the Pretended Prince of Wales, and his open and secret Abettors; which Oath shall be administered to them by such Person or Persons as you shall commissionate for such Purpose; and in case any of the said French Inhabitants shall refuse to take the said Oath, and make and subscribe the Declaration of Abjuration, as aforesaid, You are to cause them forthwith to depart out of Our said Government.”(7)

The civil government instituted by the Royal Proclamation of 1763 and confirmed by Murray's instructions in the same year was not very satisfactory. As stated eleven years later when the Quebec Act was passed by the Imperial House of Commons: “If the proclamation is to be considered as importing English laws into a country already settled, I take it to be an act of the grossest and absurdest and cruellest tyranny that a conquering nation ever practised over a conquered country. Look back to every page of history, and I defy you to produce a single instance in which a conqueror attempted to take away from a conquered province, by one rough stroke, the whole of their constitution.”

The Law Officers of the Crown in England had been of the same opinion in 1766 when they reported that it seemed an absurdity to attempt the administration of justice in Canada in an unknown tongue and without the aid of Canadians and “at once to abolish all the usages and customs of Canada with the rough hand of the conqueror”.

We have explained why no General assembly, as recommended by the Instructions to Governor Murray, was ever summoned during the period preceding the Quebec Act of 1774, which also explains the chaotic conditions in existence during the same period. The position was to be entirely changed by the adoption of the Quebec Act 1774.

(7) In 1766 the Lords of the Committee of Council for Plantation Affairs secured the joint advice of the Attorney-General and the Solicitor General concerning the Civil Government of Quebec. It was evident, the latter reported, that there were two principal sources of disorder. One was the attempt to administer justice without the aid of the Canadians in an unknown tongue, with neither Canadian advocates nor Canadian jurors, even in causes between Canadians only, nor judges conversant with the French language. The second source of disorder was:

“the alarm taken at the construction put upon His Majesty's Proclamation of October 7th, 1763. As if it were His Royal Intentions by His Judges and Officers in that country at once to abolish all the usages and customs of Canada, with the rough hand of the conqueror rather than with the true spirit of a lawful Sovereign, and not so much as to extend the protection and Benefit of His English Laws to his new subjects, by securing their Lives, Liberty and Properties with more certainty than in former times, as to impose new, unnecessary and arbitrary Rules, especially in the Titles to Land, and in the modes of Descent, Alienation, and Settlement, which tend to confound and subvert rights instead of supporting them.” (W. F. O'Connor—*Report to the Speaker of the Senate of the Parliament Counsel, etc.*, pages 10 and 11 of Annex 4.)

THE QUEBEC ACT, 1774 (EXTRACTS)

And whereas the Provisions, made by the said Proclamation, in respect to the Civil Government of the said Province of Quebec, and the Powers and Authorities given to the Governor and other Civil Officers of the said Province, by the Grants and Commissions issued in consequence thereof, have been found, upon Experience to be inapplicable to the State and Circumstances of the said Province, the Inhabitants whereof amounted, at the Conquest, to above Sixty-five thousand Persons professing the Religion of the Church of Rome, and enjoying an established Form of Constitution and System of Laws, by which their Persons and Property have been protected, governed, and ordered, for a long Series of Years, from the first Establishment of the said Province of Canada; be it therefore further enacted by the Authority aforesaid, That the said Proclamation, so far as the same relates to the said Province of Quebec, and the Commission under the Authority whereof the Government of the said Province is at present administered, and all and every the Ordinance and Ordinances made by the Governor and Council of Quebec for the Time being, relative to the Civil Government and Administration of Justice in the said Province, and all Commissions to Judges and other Officers thereof, be, and the same are hereby revoked, annulled, and made void, from and after the First Day of May, One thousand seven hundred and seventy-five.⁽⁸⁾

And, for the more perfect Security and Ease of the Minds of the Inhabitants of the said Province, it is hereby declared, That His Majesty's Subjects, professing the Religion of the Church of Rome, of and in the said Province of Quebec, may have, hold, and enjoy, the free Exercise of the Religion of the Church of Rome, subject to the King's Supremacy, declared and established by an Act, made in the First Year of the Reign of Queen Elizabeth, over all the Dominions and Countries which then did, or thereafter should, belong to the Imperial Crown of this Realm; and that the Clergy of the said Church may hold, receive, and enjoy, their accustomed Dues and Rights, with respect to such Persons only as shall profess the said Religion.⁽⁹⁾

Provided always, and be it enacted, That no Person, professing the Religion of the Church of Rome, and residing in the said Province, shall be obliged to take the Oath required by the said Statute.⁽¹⁰⁾

And be it further enacted by the Authority aforesaid, That all His Majesty's Canadian Subjects, within the Province of Quebec, the religious Orders and Communities only excepted, may also hold and enjoy their Property and Possessions, together with all Customs and Usages relative thereto, and all other their Civil Rights, in as large, ample, and beneficial Manner, as if the said Proclamation, Commissions, Ordinances, and other Acts and Instruments had not been made, and as may consist with their Allegiance to His Majesty, and Subjection to the Crown and Parliament of Great Britain; and that in all Matters of Contro-

(8) This section had the effect of rendering null and void the former provisions of the civil laws of England which had been imposed by the proclamations of 1763 in violation of the terms of the capitulations.

(9) This section authorized the inhabitants of Quebec to practise the Catholic religion subject to the King's supremacy and sanctioned the right of the Roman Catholic Clergy to impose and collect tithes.

(10) This provision substituted for Roman Catholics a new form of Oath for the Test Oath previously imposed upon them.

versy, relative to Property and Civil Rights, Resort shall be had to the Laws of Canada, as the Rule for the Decision of the same.⁽¹¹⁾

And whereas the Certainty and Lenity of the Criminal Law of England, and the Benefits and Advantages resulting from the use of it, have been sensibly felt by the Inhabitants, from an Experience of more than Nine Years, during which it has been uniformly administered; be it therefore further enacted by the Authority aforesaid, That the same shall continue to be administered, and shall be observed as Law in the Province of Quebec, as well in the Description and Quality of the Offence as in the Method of Prosecution and Trial.⁽¹²⁾

And whereas it may be necessary to ordain many Regulations for the future Welfare and good Government of the Province of Quebec, the Occasions of which cannot now be foreseen, nor, without much Delay and Inconvenience, be provided for, without intrusting that Authority, for a certain Time, and under proper Restrictions, to Persons resident there: And whereas it is at present inexpedient to call an Assembly; be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Warrant under His or Their Signet or Sign Manual, and with the Advice of the Privy Council to constitute and appoint a Council for the Affairs of the Province of Quebec, to consist of such Persons resident there, not exceeding Twenty-three, nor less than Seventeen, as His Majesty, His Heirs and Successors, shall be pleased to appoint.⁽¹³⁾

The Quebec Act, although it did not institute responsible or even representative government was considered by Canadians as the first charter of their liberties and for their liberties and for this reason, as stated by Governor Haldimand, its passing prevented Canada from becoming a thirteenth state of the Union after the breaking out of hostilities between England and the American Colonies.⁽¹⁴⁾

We have seen, in the Extracts quoted above, the main provisions of the Act. These of course, although satisfactory on the whole to French-Canadians did not satisfy the United Empire Loyalists who were already clamouring for representative institutions.

Another effect of the Quebec Act was to extend the territory of the provinces to the frontiers of New-England, to Pennsylvania, to the province of New-York, then to the Ohio and to the left bank of the Mississippi and then to the territory of the Hudson Bay.

THE CONSTITUTIONAL ACT, 1791

The Act repeals so much of the Quebec Act, 1774

“As in any manner relates to the appointment of a council for the affairs of the said province of Quebec, or to the power

(11) This section confirmed His Majesty's Canadian Subjects in the enjoyment of their possessions and continued in existence the Canadian laws as to property.

(12) Provides that the criminal law system shall be that of England.

(13) Creates a Crown nominated Legislative Council with authority to make ordinances for the peace, order and welfare of the province.

(14) See *Problems of Canadian Sovereignty* by Maurice Ollivier, at p. 13 et seq. (With permission of Canada Law Book Co. Toronto.)

given by the said Act to the said council, or to the major part of them, to make ordinances for the peace, welfare and good government of the said province, with the consent of His Majesty's Governor, Lieutenant-Governor, or Commander in Chief for the time being."

Section II reads as follows:

"And whereas His Majesty has been pleased to signify, by his message to both Houses of Parliament, his Royal intention to divide his Province of Quebec into two separate Provinces, to be called the Province of Upper Canada and the Province of Lower Canada;(15) Be it enacted by the authority aforesaid, that there shall be within each of the said Provinces respectively a Legislative Council and an Assembly, to be severally composed and constituted in the manner hereinafter described; and that in each of the said Provinces respectively, His Majesty, His Heirs, and Successors, shall have power during the continuance of this Act, by and with the advice and consent of the Legislative Council and Assembly of such Provinces respectively, to make laws for the peace, welfare and good Government thereof, such laws not being repugnant to this Act; and that all such laws being passed by the Legislative Council and Assembly of either of the said Provinces respectively, and assented to by His Majesty, His Heirs or Successors, or assented to in His Majesty's name by such person as His Majesty, His Heirs or Successors, shall from time to time appoint to be the Governor or Lieutenant-Governor of such Province, or by such person as His Majesty, His Heirs or Successors, shall from time to time appoint to administer the Government within the same, shall be, and the same are hereby declared to be, by virtue of and under this Act, valid and binding, to all intents and purposes whatever, within the Province in which the same shall have been so passed."(16)

Section XXXIII is as follows:

"And be it further enacted by the authority aforesaid, that all laws, statutes, and ordinances which shall be in force on the day to be fixed in the manner herein after directed for the commencement of this Act, within the said Provinces, or either of them, or in any part thereof respectively, shall remain and continue to be of the same force, authority, and effect in each of the said Provinces respectively as if this Act had not been made, and as if the said Province of Quebec had not been divided; except in so far as the same are expressly repealed or varied by this Act, or in so far as the same shall or may hereafter by virtue of and under the authority of this Act be repealed or varied by His Majesty, his heirs, or successors, by and with the consent of the Legislative Councils and Assemblies of the said Provinces respectively, or in so far as the same may be repealed or varied by such temporary laws or ordinances as may be made in the manner hereinafter specified."(17)

(15) This intention was carried out by an order in council dated 24th August, 1791.

(16) This section therefore provides for a Legislative Council and a Legislative Assembly to be constituted within each of the intended provinces, by whose advice His Majesty may make laws for the government of the province.

(17) This section states that the laws in force at the commencement of the Act shall continue so until repealed or varied by the legislatures of each province.

The years 1791 to 1840 cover the period of transition between the absolute regime and responsible government. It is the period of representative government. Even representative government however was granted reluctantly. In 1789 in a well known document of the Colonial Office it is noted that this is the first step which will lead eventually to complete political separation and to independence.

The document reads:

"The establishment of the separate and local Legislature in a distant province, under any form or model which can be adopted for the purpose, leads so evidently to habitual notions of a distinct interest, and to the existence of a virtual independence as to many of the most important points of Government, that it seems naturally to prepare the way for an entire separation whenever other circumstances shall bring it forward."

The Constitutional Act of 1791 divided Canada into Upper and Lower Canada, giving to each separate parliamentary institutions as we have seen by section II quoted above. The governor had a right of veto and could give or withhold His Majesty's assent to bills or reserve them for His Majesty's pleasure. (Section XXX.)

In many ways, the imperial parliament constituted a central authority such as now devolves to the federal parliament. Thus it would impose and levy navigation and commercial dues between the provinces or between a province and a foreign country.

As to the civil servants they were all appointed by the Crown which naturally resulted in the creation of a very objectionable and irresponsible bureaucracy. After the troubles of 1837-38 which belong to history and need not be studied in this legal summary, Lord Durham was appointed by Royal Commission governor-general and high commissioner with instructions to report on the best form of government that should be granted to the colony.

The report is a remarkable document well known and often quoted. It will be sufficient for our purpose to state that Lord Durham had a broad vision of an autonomous country where liberty would create loyalty and where good-will, rather than force, would bring about peace. His conclusion was that responsible government should be granted to the Canadas: "I am of opinion, that the full establishment of responsible government can only be permanently secured by giving these Colonies an increased importance in the policies of the Empire."—"The Governor, as the representative of the Crown, should be instructed that he must carry on his government by heads of departments, in whom the united Legislature shall repose confidence, and that he must look for no support from home in any contest with the legislature, except on points involving strictly Imperial interests."⁽¹⁸⁾

(18) See *Problems of Canadian Sovereignty* by Maurice Ollivier, pages 16 to 24. (With permission of the Canada Law Book Company, Toronto.)

THE UNION ACT, 1840*

3-4 VICTORIA, CHAPTER 35

An Act to re-unite the Provinces of Upper and Lower Canada, and for the government of Canada

[23rd July, 1840.]

It shall be lawful for Her Majesty, with the advice of her Privy Council, to declare, or to authorize the Governor-General of the said two Provinces of Upper and Lower Canada to declare by proclamation that the said Provinces shall form and be one Province under the name of the Province of Canada, and thenceforth the said Provinces shall constitute and be one Province under the name aforesaid upon, from and after the day so appointed, as aforesaid.

Declaration
of Union.

And be it enacted that from and after the reunion of the said two Provinces there shall be within the Province of Canada one Legislative Council and one assembly to be severally constituted and composed in the manner hereinafter prescribed, which shall be called "The Legislative Council and Assembly of Canada;" and that within the Province of Canada her Majesty shall have power, by and with the advice and consent of the said Legislative Council and Assembly, to make laws for the peace, welfare, and good government of the Province of Canada.

Composition
and powers
of
Legislature.

And be it enacted that in the Legislative Assembly of the Province of Canada, to be constituted as aforesaid, the parts of the said Province which now constitute the Provinces of Upper and Lower Canada, respectively, shall, subject to the provisions hereinafter contained, be represented by an equal number of representatives to be elected for the places and in the manner hereinafter mentioned.

Representa-
tives for
each
Province.

And be it enacted that it shall be lawful for the Governor of the Province of Canada for the time being to fix such place or places within any part of the Province of Canada, and such times for holding the first and every other session of the Legislative Council and Assembly of the said Province as he may think fit, such times and places to be afterwards changed or varied as the Governor may judge advisable and most consistent with general convenience and the public welfare, giving sufficient notice thereof; and also to prorogue the said Legislative Council and Assembly from time to time, and dissolve the same, by proclamation or otherwise, whenever he shall deem it expedient.

Place and
times of
holding
Parliament.

And be it enacted that there shall be a session of the Legislative Council and Assembly of the Province of Canada once at least in every year, so that a period of twelve calendar months shall not intervene between the last sitting of the Legislative Council and Assembly in one session and the first sitting of the Legislative Council and Assembly in the next session; and that every Legislative Assembly of the said

Duration of
Parliament.

*Revised Statutes of Canada, 1859, p. xix.

Province hereafter to be summoned and chosen shall continue for four years from the day of the return of the writs for choosing the same, and no longer, subject nevertheless to be sooner prorogued or dissolved by the Governor of the said Province.

Giving or withholding assent to bills.

And be it enacted that whenever any bill which has been passed by the Legislative Council and Assembly of the Province of Canada shall be presented for her Majesty's assent to the Governor of the said Province, such Governor shall declare according to his discretion, but subject nevertheless to the provisions contained in this Act, and to such instructions as may from time to time be given in that behalf by her Majesty, her heirs or successors, that he assents to such bill in her Majesty's name, or that he withholds her Majesty's assent, or that he reserves such bill for the signification of her Majesty's pleasure thereon.

Disallowance of bills assented to.

And be it enacted that whenever any bill, which shall have been presented for her Majesty's assent to the Governor of the said Province of Canada, shall by such Governor have been assented to in her Majesty's name, such Governor shall by the first convenient opportunity transmit to one of her Majesty's principal Secretaries of State an authentic copy of such bill so assented to; and that it shall be lawful at any time within two years after such bill shall have been so received by such Secretary of State, for her Majesty by Order in Council to declare her disallowance of such bill; and that such disallowance, together with a certificate under the hand and seal of such Secretary of State certifying the day on which such bill was received as aforesaid, being signified by such Governor to the Legislative Council and Assembly of Canada by speech or message to the Legislative Council and Assembly of the said Province, or by proclamation, shall make void and annul the same from and after the day of such signification.

Assent to bills reserved

And be it enacted that no bill which shall be reserved for the signification of her Majesty's pleasure thereon shall have any force or authority within the Province of Canada until the Governor of the said Province shall signify, either by speech or message to the Legislative Council and Assembly of the said Province, or by proclamation, that such bill has been laid before her Majesty in Council and that her Majesty has been pleased to assent to the same; and that an entry shall be made in the journals of the said Legislative Council of every such speech, message, or proclamation, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept amongst the records of the said Province; and that no bill which shall be so reserved as aforesaid shall have any force or authority in the

said Province unless her Majesty's assent thereto shall have been so signified as aforesaid within the space of two years from the day on which such bill shall have been presented for her Majesty's assent to the Governor as aforesaid.

And be it enacted that from and after the said reunion of the said two Provinces, all writs, proclamations, instruments for summoning and calling together the Legislative Council and Legislative Assembly of the Province of Canada and for proroguing and dissolving the same, and all writs of summons and election, and all writs and public instruments whatsoever relating to the said Legislative Council and Legislative Assembly or either of them, and all returns to such writs and instruments, and all journals, entries, and written or printed proceedings of what nature soever of the said Legislative Council and Legislative Assembly and each of them respectively, and all written or printed proceedings and reports of committees of the said Legislative Council and Legislative Assembly respectively, *shall be in the English language only*: Provided always, that this enactment shall not be construed to prevent translated copies of any such documents being made, but no such copy shall be kept among the records of the Legislative Council or Legislative Assembly, or be deemed in any case to have the force of an original record. (Lord John Russell explained that this section only dealt with English as the language of "original record". There is nothing, however, in this section against French as the language of debate, and indeed it was used as such from the time of first Union Parliament. For the repeal of this section, see No. CLXXIII and note.)

Language of
Legislative
records.

And be it enacted that all laws, statutes, and ordinances which at the time of the union of the Provinces of Upper and Lower Canada shall be in force within the said Provinces or either of them or any part of the said Provinces respectively, shall remain and continue to be of the same force, authority, and effect in those parts of the Province of Canada which now constitute the said Provinces respectively as if this Act had not been made, and as if the said two Provinces had not been united as aforesaid, except in so far as the same are repealed or varied by this Act, or in so far as the same shall or may hereafter by virtue and under the authority of this Act be repealed or varied by any Act or Acts of the Legislature of the Province of Canada.

Existing
laws saved.

And be it enacted that upon the union of the Provinces of Upper and Lower Canada, all duties and revenues over which the respective Legislatures of the said Provinces before and at the time of the passing of this Act had and have power of appropriation, shall form one consolidated revenue fund to be appropriated for the public service of the Province of Canada in the manner and subject to the charges hereinafter mentioned.

Revenues of
the two
Provinces
to form a
Consoli-
dated
Revenue
Fund.

The order
of charges
on the
Consoli-
dated
Fund to
be:—

1st, Expense
of
Collection;
2nd,
Interest
of the debt;
3rd, pay-
ments to
the Clergy;
4th and 5th,
Civil List;
6th, Other
charges
already
made on
the Public
Revenue.

Subject to
the above
charges,
the Con-
solidated
Revenue
Fund to be
appropriated
by the
Provincial
Legislature,
by bills,
etc.

And be it enacted that the expenses of the collection, management, and receipt of the said consolidated revenue fund shall form the first charge thereon; and that the annual interest of the Public Debt of the Provinces of Upper and Lower Canada, or of either of them, at the time of the reunion of the said Provinces shall form the second charge thereon; and that the payments to be made to the clergy of the United Church of England and Ireland, and to clergy of the Church of Scotland, and to ministers of other Christian denominations, pursuant to any law or usage whereby such payments before or at the passing of this Act were or are legally or usually paid out of the public or Crown revenue of either of the Provinces of Upper and Lower Canada, shall form the third charge upon the said consolidated revenue fund; and that the said sum of forty-five thousand pounds shall form the fourth charge thereon; and that the said sum of thirty thousand pounds, as long as the same shall continue to be payable, shall form the fifth charge thereon; and that the other charges upon the rates and duties levied within the said Province of Canada hereinbefore reserved shall form the sixth charge thereon, so long as such charges shall continue to be payable.

And be it enacted that, subject to the several payments hereby charged on the said Consolidated revenue Fund, the same shall be appropriated by the Legislature of the Province of Canada for the public service in such manner as they shall think proper: Provided always that all bills for appropriating any part of the surplus of the said consolidated revenue fund, or for imposing any new tax or import, shall originate in the Legislative Assembly of the said Province of Canada: Provided also that it shall not be lawful for the said Legislative Assembly to originate or pass any vote, resolution, or bill for the appropriation of any part of the surplus of the said consolidated revenue fund, or of any other tax or impost, to any purpose which shall not have been first recommended by a message of the Governor to the said Legislative Assembly during the session in which such vote, resolution, or bill shall be passed.

RESPONSIBLE GOVERNMENT⁽¹⁹⁾

In reviewing that period which extends from the beginning of the nineteenth century to the end of the Union of the two Canadas one cannot but recall the idea of responsible government. During that period, and more particularly in the middle forties, the concept of responsible government explains the main events which took place. It is the end towards which Canadian parliamentarians were striving and it is in attaining this objective that they have taken the most important step in the slow but sure progress towards autonomy.

(19) From *Problems of Canadian Sovereignty* by Maurice Ollivier, pages 24 to 34. (With permission of the Canada Law Book Company, Toronto.)

In the first years of the last century, Pierre Bédard had campaigned very strenuously in Lower Canada in favour of a government of men having the people's confidence. Every student of Canadian history knows of the struggles of Papineau, Neilson and Lafontaine for the triumph of this principle in Lower Canada. In Upper Canada, William Lyon Mackenzie and Baldwin, and Howe in Nova Scotia, experienced the same difficulties. The struggles of the legislatures are well known and need only be recalled to memory. It is, however, important to consider responsible government in itself and its consequences.

Responsible government exists when the Executive is responsible to a legislature and is kept in power by the vote of the majority of that assembly, elected by the people. Therefore, there is responsible government when the Ministry is made up of chiefs of administrative departments who remain at the head of their respective departments only as long as they are supported by the majority of the assembly.

It has also been called government by parliament or by the cabinet. Theoretically, the executive power is vested in the governor, or, if one prefers, in the governor in council. In reality, it is the ministers who govern, and, although the latter are appointed by the Crown, the governor who represents the Crown chooses his ministers from the members elected belonging to the majority group.

Writing to Lord Castlereagh, then Colonial Secretary, about the Canadian Party, Governor Craig of Lower Canada expressed the following opinion: "They either believe, or affect to believe that there exists a Ministry here, and that in imitation of the constitution of Britain that Ministry is responsible to them for the conduct of the Government. It is not necessary that I should point out to your Lordship the steps to which such an idea may lead."

In 1835, quite a variation might be noticed in the opinion of the Colonial Secretary, so much so that Lord Glenelg wrote to Governor Head: "To His Majesty and to Parliament the Governor of Upper Canada is at all times most fully responsible for his official acts. This responsibility . . . is one which it is in the power of the House of Assembly at any time, by address or petition, to bring into active operation. . . . The principle of effective responsibility should pervade every department of your Government."

The following year, however, Craig declared that he would never allow an Executive Council officially to assume that heavy responsibility which he owes to his Sovereign as well as to the people of the province.

In 1837, Lord John Russell succeeded in having adopted by the House of Commons the famous resolutions which brought about the troubles previously mentioned. Everything that had been asked for was refused. Russell refused, among other things, to recognize that the Executive Council in Canada was modelled on that of England. Pursuant to the traditions of the Colonial

Office, this proposition was wholly inconsistent with the relations to be had between the Mother Country and a colony. According to his way of thinking, it would result from the admitting of such a principle that Canada would then cease to be a colony, that such power could not be granted to a colonial legislature, for it would affect the prerogative of the British Crown. His opinion was still the same in June, 1839, when he introduced his bill for the union of the two Canadas. He made it known that Lord Durham's report had not changed his opinion that an Executive council in Canada could not enjoy the same responsibility as the Executive Council in England, and, he added further, that the governor received his instructions from the Crown under the responsibility of the Secretary of State. After having read Lord Durham's report and knowing thereby his thoughts on the subject, it is easy to imagine what answer he made in the House of Lords to the speech made in the House by Lord Russell. Again Lord Russell expressed the same sentiments in his dispatches of the 7th of September and the 14th of October, 1839, to Governor Thompson.

For his part, Thompson was a very apt pupil and had forgotten nothing that Russell had taught him, and he wrote on the 12th of September, 1839: "I am not a bit afraid of the responsible government cry. I have already done much to put it down in its inadmissible sense, namely, the demand that the council shall be responsible to the assembly, and that the governor shall take their advice, and be bound by it." He wrote further to Russell on the 27th of May, 1840: "Acting upon the principle which I have on a former occasion laid down, I can only look on the Council as persons whose advice the Governor may seek, and which he may adopt or not as he pleases, the responsibility of any decision to which he may come, resting upon him alone. . . ."

Many other quotations may be made from Thompson's letters. They are all in the same vein, for he believed, as he further stated to Russell on the 27th of June, 1841 (after having been made Lord Sydenham in August, 1840), that what was required for Canada as governor was one who had the firm will to govern as he had himself.

Enough has been said as to the attitude of the governors which were sent to Canada to indicate that they certainly did not favour the idea of responsible government in Canada and to show that a great deal of credit is due to Lord Durham who advocated the idea.

Two other conclusions might be drawn: First, that responsible government was not created by the Union Act, and the second one, which follows the first, that it is useless to establish our status between 1840 and 1867 by the terms of the Union Act, and between 1867 and 1931 from the terms of the British North America Act. The establishment of responsible government is not predicated upon any law. Its existence is due to the

instructions given to a governor that he should choose his ministers from a group having, according to its majority, the confidence of the Assembly. The relations between the Legislature and the Executive are not defined by the constitution of 1840, nor were they twenty-seven years later by the British North America Act. Section 45 of the Union Act mentions the Executive Council to be appointed by Her Majesty but does not refer to the responsibility of the council. It can be stated that responsible government has existed in Canada as in the other Dominions, not by virtue of the constitution, but that it has developed in the natural course of events, by constitutional practice and precedent. It was later recognized in the instructions which the Colonial Secretary of State transmitted to the governors. No trace of responsible government can be found in the instructions given to Sydenham, Metcalfe or Bagot.

Lord John Russell summarized the principles of the constitution of 1840 as follows: "A legislative union of the two provinces, the maintenance of the three estates of the provincial legislature, the settlement of a permanent civil list for securing the independence of the judges, and to the executive government that freedom of action which is necessary for the public good, and the establishment of a system of local government by representative bodies, freely elected in the various cities and rural districts."

In his instructions to the Governor General in 1841, Lord Russell advised calling to the council these persons who by their position and character have deserved the confidence and esteem of the inhabitants of the province. We have seen the interpretation Sydenham was to give to this purposely vague advice.

The Baldwin-Lafontaine Ministry which was unwilling to accept Lord Sydenham's idea of ministerial responsibility, and had for that reason previously been forced to resign, came back to power in 1848, thus ensuring the triumph of those ideas for which the party had fought between 1843 and 1847.

It might here be pointed out that in Nova Scotia responsible government existed as far back as 1846 by virtue of a dispatch from Lord Grey to Sir John Harvey, then lieutenant-governor of that province, in which the Colonial Secretary declared that the Executive Council could be retained as long as it had the confidence of the legislature. It is correct to state that responsible government appeared in Canada in 1847 and that on the 11th of March, 1848, the reorganization of the Baldwin-Lafontaine Ministry inaugurated the era of free government in our country. This date marks the birth of our nation.

We have mentioned 1847 as the date of the appearance of responsible government, the year when Lord Elgin was appointed Governor General. For the first time, the instructions from the Secretary of State of the colonies, Lord Grey, recognize the idea of ministerial responsibility. It is therein stated clearly that the Governor must act generally upon the advice of his Executive

Council and that he must choose as its members those persons who are indicated to him as having the right to be called thereto from the fact that they enjoy the confidence of the Assembly.

It may be stated that responsible government was established in 1848 just as it may be said that Canada became a sovereign country in 1931. It might be fair perhaps to say that these dates show the exact time when those facts were officially recognized, for, in British countries legal definitions generally recognize and sanction existing conditions.

To be convinced one has but to read the confidential dispatch from Governor Metcalfe to Lord Stanley, dated the 24th of April, 1843, in which the former states, speaking about his Executive Council, that "they consider themselves already as a responsible ministry and expect that the politic and the conduct of the Governor shall follow their point of view and recognize their opinion as a political party." The Governor insisted on choosing his advisers without distinction of party. His opinion was that the country should be governed by himself and not by a political party.

Notwithstanding its importance, the acquisition of responsible government by the country was not the only event which changed our status between 1840 and 1848. Since 1842, the British government had abstained from making customs tariffs for the colony and in the year 1846 an Imperial statute was passed, chapter 94, 9-10 Victoria, which authorized the colonies to enact their own customs laws. From that date, we could therefore regulate our own commerce to suit our own taste without outside intervention. About the same time, Canada obtained the command of the civil list while the Imperial Parliament refrained from disposing in any way of the revenues of the province. Another barrier to our autonomy disappeared when Canada obtained the control of its postal administration. However, all the advantages then obtained in the political domain, with the hope conveyed of what was to follow gradually, were insufficient to bring about the union of the population or its economic welfare. To bring about unity, that clause of the constitution restricting the use of the French language in the Legislature was abrogated in 1848. As to the economic difficulties, they were due to two causes: (1°) the adoption by Great Britain in 1846 of the theory of free trade; (2°) the nefarious navigation laws. The farmers and millers found themselves in great difficulties not having in England any more the protected markets to which they had been accustomed. Industry, commerce and agriculture were in a slump, so much so that a very pronounced annexationist movement developed all over the country, more particularly in Montreal, where a resounding manifesto in favour of union with the neighbouring republic was issued. A dual remedy to the crisis was devised: the repeal of the navigation clauses, the effect of which was to make the navigation on the St. Lawrence free, and the signing of a treaty of reciprocity on natural products with the United States.

In 1844 the Imperial government adopted an Act which we might consider for a moment. The Legislative Assembly had asked by an address to the British government the right to amend the constitution of the Legislative Council, and the House of Commons in London granted this request. Accordingly, ten years later the Canadian legislature passed an Act establishing an elective upper Chamber.

As the Canadians had protested ten years previously when England abandoning its protection policy had opened its markets to all countries and had ceased to grant us the particular advantages which had been ours up till then, in the same manner ten years later, that is in 1859, by a strange coincidence which indicated the progress we had made in our evolution towards complete autonomy, it was England who strongly protested when the Canadian tariff of 1859 definitely sanctioned the principle of protection.

As we have previously mentioned, an Imperial Act passed in 1846 had authorized the colonies to enact their own tariff laws. On the strength of this authorization, Sir John Macdonald subjected English merchandise coming into Canada to tariff duties. Many members of the House of Commons at Westminster were in favour of the disallowance of an Act so audacious. Our own Minister of Finance, Sir Alexander Galt, answered them in a dispatch to the Colonial Office by which he claimed for the Canadian legislature the right to adopt its own customs tariff.

THE YEARS PRECEDING CONFEDERATION⁽²⁰⁾

Long before 1867 the Union Act had ceased to work properly. More particularly, the inhabitants of Upper Canada who, in 1840, had no objection to the two provinces having equal representation while they were fewer in number, could not help but think differently when their own population, much increased by constant immigration, became more numerous than that of Lower Canada. The claims for representation proportional to the population therefore came more especially from Upper Canada. On the other hand, the two political parties were at times so evenly divided, especially between 1862 and 1864, that five changes of ministry then took place and it was extremely difficult to govern under the circumstances as the fate of the government was dependent upon the transfer of a couple of votes, sometimes of a single one.

Sir John A. Macdonald⁽²¹⁾ was of the opinion that the first mention made in the legislature of a project of federation of the provinces was made by the Honourable A. J. Galt, but

(20) See *Problems of Canadian Sovereignty* by Maurice Ollivier, pages 34 to 36. (With permission of the Canada Law Book Company.)

(21) Speech in the House on the occasion of the debate on Confederation, February 6, 1865.

it was only in 1858, on the occasion of the formation of the Cartier-Macdonald ministry, that a political party made it an article of its programme and set out to accomplish it.

However, as stated by the Honourable George Brown on the 8th of February, 1865, this promise was more or less forgotten and no more was heard about it, at least seriously, until 1864 when it became impossible to delay any longer the solution of the political difficulties which had arisen and which were destroying our credit, our prosperity and our progress.

Anxious to make use of the tendencies towards union of the maritime provinces, the government of Canada decided to send delegates to the convention in Charlottetown. This convention was soon to be followed by another one in Quebec where the delegates of the different British colonies of North America met. Seventy-two resolutions were adopted at this conference to be used as a basis for the future constitution. These resolutions were adopted in the legislature of Canada early in 1865, after having been introduced in the Council by Sir Etienne-Pascal Taché, and, in the Assembly by Sir John A. Macdonald, supported by Sir Georges-Etienne Cartier. The proposition was as follows:

"That an humble address be presented to Her Majesty, praying that she may be graciously pleased to cause a measure to be submitted to the Imperial Parliament for the purpose of uniting the Colonies of Canada, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island in one Government, with provisions based on certain resolutions, which were adopted at a Conference of Delegates from the said Colonies, held at the City of Quebec, on the 10th October, 1864."

The maritime provinces were hesitating, however, to accept this project for reasons of a financial character, and a new conference was required which took place in London in 1866. Finally, the British North America Act was introduced in the Parliament of Westminster on the 21st of February, 1867, and was ratified the 29th of March of the same year.

THE BRITISH NORTH AMERICA ACT, 1867

Its nature with a summary of its main provisions

There has been a certain amount of discussion as to whether the B.N.A. Act was a pact or not. This discussion has taken place amongst writers on constitutional law and the subject has been perhaps more frequently mentioned in political speeches. Strictly speaking it is impossible to say that the B.N.A. Act is a pact since it is an Act of the Imperial Parliament which is supreme. On the other hand this statute cannot, in this day and age, be amended without the consent of Canada and, furthermore, it is based upon an understanding which had taken place between the different colonies. We might recall here that these resolutions constituted a compromise, a sort of pact

or understanding, and we might add that our constitution is a re-edition of this understanding with very few changes. These resolutions were adopted at the Quebec Conference which had followed that of Charlottetown and they were put in statute form at the London Conference.

As the different provinces, or colonies, as they then were called, were anxious to protect their autonomy it had been decided to have a federal union rather than a legislative one. It is true that a government less divided between different jurisdictions, consequently much stronger, if, for instance, there had been only a central government, might have obtained for Canada much sooner that independence which it now enjoys. On the other hand Lower Canada could not consent to a union where the inhabitants of the province by becoming a minority would have run the risk of seeing their nationality submerged and of losing their language, the Civil law and the traditions to which they were rightly attached.

It is not mentioned in the B.N.A. Act anymore than in the Union Act, that the Dominion should enjoy responsible government; on the contrary Section 9 of the Statute declares that the executive government and authority of and over Canada is to continue and be vested in the Queen;—Section 11 institutes the Privy Council for Canada and Section 12 states that the powers of the Governor General should be exercised by the Governor General on the advice of his Council or by the Governor General alone, as the case may be.

Bourinot in his book: "How Canada is Governed" writes that:

"The Canadian constitution, or British North America Act of 1867, is a statute of the parliament of Great Britain, before whom as the supreme legislative authority of the empire the provinces of Canada had to come and express their desire to be federally united. In the addresses to the queen containing the resolutions of the Quebec conference of 1864, the legislatures of the provinces set forth that in a federation of the British North American provinces the system of government best adapted under existing circumstances to protect the diversified interests of the several provinces, and secure harmony and permanency in the working of the union, would be a general government charged with matters of common interest to the whole country, and local governments for each of the Canadas, and for the provinces of Nova Scotia, New Brunswick and Prince Edward Island, charged with the control of local matters in their respective sections."

In the third paragraph the resolutions declare that "in framing a constitution for the general government, the conference, with a view to the perpetuation of our connection with the mother country, and the promotion of the best interests of the people of these provinces, desire to follow the model of the British constitution so as our circumstances permit". In the fourth paragraph it is stated: "The executive authority or government shall be vested in the sovereign of the United Kingdom of Great Britain and Ireland, and be administered

according to the well-understood principles of the British constitution, by a sovereign personally, or by the representative of the sovereign duly authorized."

In these three paragraphs we see clearly expressed the leading principles on which our system of government rests:

A federation with a central government exercising general powers over all the members of the union, and a number of local governments having the control and management of certain matters naturally and conveniently belonging to them, while each government is administered in accordance with the British system of parliamentary institutions.

Here we might ask ourselves what is a constitution and we will find that it is the fundamental law of a state directing the principles upon which the government is founded and regulating the exercise of the sovereign powers, directing to what bodies and persons those powers shall be confided and the manner of their exercise.

Amongst the distinctions to be established in constitutions we should mention that of—written and unwritten constitutions. These words however should not be taken too literally as in a country which is governed by a written constitution much of the constitutional or fundamental law is unwritten and is to be found outside the written document called: "The Constitution" for instance amongst the constitutional conventions which have really the force of law. On the other hand a country has an unwritten constitution when the constitution is not contained in a single and overriding document, which does not mean however, that no part of this constitution is written. In countries like England for instance it has been said that the country did not have a constitution because it could not produce a written document called the Constitution; "however there is no doubt that there exists an English constitution which any student of history may recognize and admire, composed of a limited number of concessions and privileges granted by the Kings of the earlier periods, of certain great leading principles admitted at different times and transmitted from generation to generation, imperishably recorded in Magna Carta and in the Petition of Right, the Bill of Rights, the Act of Settlement and many other statutes. It is composed also of traditions, customs and constitutional conventions. It means freedom to think, to live, to worship and to work our destiny as men and women who have a great mission and a great responsibility and obligation". The English Constitution is part of our own from the very preamble of the B.N.A. Act where it is stated that the provinces have expressed the desire to be federally united with a constitution similar in principle to that of the United Kingdom.

Our constitution deals with the three powers that is: the legislative—the executive—and the judicial. The legislative,

which makes the laws—the executive, which administers them—and the judicial, which has to do with their interpretation. Our actual system of government was therefore established by the B.N.A. Act 1867 which is a law of the Imperial Parliament passed in the early part of 1867 without a division and which united at that time the province of Canada, now divided into Ontario and Quebec, with Nova Scotia and New Brunswick, and made provision at the same time for the coming in of the other provinces; the word—federation—is a misnomer for what was then created was a federal union, a system which comprises a central government to control these matters which are essential for the development, permanency and unity of the whole country and also a certain number of provincial governments to deal with local subjects, more defined, and which naturally come under their jurisdiction. The Canadian Constitution is therefore a statute of the Parliament of Great Britain before whom, as the supreme legislative authority of the Empire, the colonies had to come and express their desire to be federally united. The leading principles on which our system of government rests are clearly expressed in the resolutions of the Quebec Conference of 1864 where the legislatures set forth that they desired a federation with a central government exercising general powers over all the members of the union and a number of local governments having the control and management of certain matters naturally and conveniently belonging to them while each government is to be administered in accordance with the British system of parliamentary institutions. The act itself contained in the origin 147 sections, divided into 11 parts, dealing, amongst other things, with the union which it created, the executive government and authority of and over Canada, the legislative power divided for Canada itself amongst the Senate and the House of Commons to act in co-operation, dealing also with the provincial constitutions and, what is exceedingly important, with the distribution of legislative powers as between Canada and its provinces, and further with the judicature, with revenues, debts, assets and taxation and, finally, with miscellaneous provisions and the admission of other colonies into the union. This gives the scope of the Act itself. Now to come back to the details of these subjects by dealing first with the Executive Power which is vested in the Queen, represented by the Governor General; in practice the Executive government is in the hands of the cabinet selected from the members of the Privy Council for Canada who form the responsible advisory council of the sovereign's representative.

The position of the Governor General has been much altered since 1867; little by little his powers have diminished and today he is neither a Governor nor a General, but rather a very

colorful representative to whom should be granted the title of Vice-Roy. As our autonomy has been increased the powers of our governors have contrariwise diminished gradually and continuously. We could now summarize the Governor's position by saying that he is the Queen's personal representative and not as he used to be the agent of Her Majesty's government in Great Britain. At the time of his appointment, the government of Canada selects its own candidate whom constitutionally the Queen must accept. It is only a case of the application of the doctrine of ministerial responsibility. The result is that the Governor General, so chosen, will exercise the executive power upon the advice of his responsible ministers but naturally in the name of the Queen. The government of Great Britain does not intervene in any way.

We shall now leave the Governor General and the executive to deal with the legislative power and note that Section 17 of the B.N.A. Act states that: "There shall be One Parliament for Canada, consisting of the Queen, an Upper House, styled The Senate, and the House of Commons." The Senate has at present 102 members and the House of Commons has 265 members in accordance with the amendment made to the British North America Act in 1952. The senators are summoned to the Senate by the Governor General under the great seal of Canada and the qualifications of senators are that they shall be British subjects of thirty years of age, possessing within the province for which they are appointed real estate of the value of \$4,000 clear of all encumbrances and be residents in the province for which they are appointed. The Act also provides for the disqualification of senators, for the appointment of the Speaker of the Senate, for the constitution of the House of Commons and for the elections of the members thereof. It deals further with the election of the Speaker of the House, for the procedure and quorum thereof, the voting therein, the duration of every House and the decennial readjustment of representation and the increase in the number of members. The Act provides that bills for appropriating any part of the public revenue or for imposing any tax or impost shall originate in the House of Commons, and that money votes shall be first recommended to the House by message of the Governor General.

The next sections deal with the Royal-Assent to bills which have passed both houses of Parliament and with the disallowance and reservation of bills after they have been passed; it is unnecessary to insist on these provisions as they have fallen into disusage.

The following part, that is: Part 5 of the B.N.A. Act, is concerned with the provincial constitutions, which are established somewhat on the model of the federal constitution, with

a lieutenant-governor substituted for the Governor General, but nowadays the provinces, except Quebec, have only the lower Chamber, that is a Legislative Assembly. In Quebec there is a legislative Assembly and a Legislative Council corresponding to the Senate.

Now comes a very important part of the B.N.A. Act, that is: Part 6 which deals with the distribution of legislative powers. An essential characteristic of a federal union is the division or distribution of legislative powers between the government of the Union as a whole and the several parts that compose the Union. Accordingly the Canadian constitution gives to the central government at Ottawa the control of certain matters of a general or national character and to the provincial governments the control of certain matters of a provincial or local importance. Section 91 of the B.N.A. Act gives to the Parliament of Canada amongst other things the sole or exclusive right of making laws for regulating trade and commerce, for the raising of money by any system of taxation, for the postal service, the armed forces, navigation and shipping, sea coast and inland fisheries, currency and coinage, banks and banking, bankruptcy, patents and copyrights, Indians, naturalization, the Criminal Law and penitentiaries, and the residue of powers, that is: such classes of subjects as are not assigned exclusively to the legislatures of the provinces, also for works for the general advantage of Canada. Canada and the local governments exercise certain rights in common, as for instance with respect to agriculture, and further the Dominion government has by the constitution a general power of disallowing any act of the legislature within one year after its reception from the government of a province.

Now the legislature may in each province exclusively make laws in relation to certain matters enumerated in section 92, first one of which is the amendment of the constitution of the province, which power up to 1949 was not possessed by the federal parliament; and it can impose direct taxation within the province, deal with provincial offices, manage and sell its public lands and the timber and wood thereon, establish, maintain and manage, prisons, hospitals, asylums, and eleemosynary institutions in and for the province. The provinces also have jurisdiction over the municipal institutions in the province, jurisdiction respecting shops and licences, local works, the incorporation of companies with provincial objects, the administration of justice in the province and what is most important, property and civil rights in the province, and, finally all matters of a merely local or private nature in the province. Another very important function of the province is the subject of education which is dealt with in a separate section which starts by saying that: In each

province the legislature may exclusively make laws in relation to education. This clause however is subject to many qualifications respecting the rights and privileges of the denominational schools and the rights of the schools of the minority in each province as those rights stood at the time of Confederation.

The next part or chapter of the B.N.A. Act deals with the judicature and provides for the appointment of the judges by the Governor General in Council. Following clauses state how they shall be selected, deal with their tenure of office, their salaries and the creation of the Supreme Court, then we come to a part entitled: Revenues, Debts, Assets, Taxation.—This part provides for the creation of the Consolidated Revenue Fund from which all monies are appropriated for the public service of Canada in the manner as in the Act provided, the Financial relations between Canada and its provinces, the grants and subsidies to the provinces, the conditions relating to the debts of the central government and of the provinces, of the grants to the provinces, the forms of payments, the customs and excise laws. Amongst the miscellaneous provisions which follow is section 133 which deals with the use of English and French languages. The other provisions of the Act are of less importance, except perhaps section 146 which deals with the admission of other colonies and their representation in the Senate.

It is impossible to deal here with the evolution of our constitution, a general evolution which has gone ahead with the inevitability of gradualness, on account of the political genius and the broad-mindedness of Canadian statesmen who, from Macdonald and Blake to Laurier, Borden and King, to name but a few, have indicated and followed themselves the road lying ahead. But this is not only due to politicians; some years ago Stanley Baldwin said in the House of Commons at Westminster: "There is no doubt that one of the results of the war was to speed up the political development and conscientiousness of every dominion in the Empire." It is quite certain that the effect of the last war, as far as constitutional development is concerned, was no different from that of the first one.

The same spirit which has prompted Canada to such an effort as it has made and to such sacrifices as we have witnessed will again unite Canada to play amongst the other nations of the world that part which is rightly hers of an equal partner that is: an independent and sovereign nation.

The United Kingdom and the Commonwealth of Nations constitute nowadays, together, a new experience, built on new principles, and the nations shall witness in the future, this fact that the spiritual link which unites all the parts of this vast organization is infinitely stronger than the military power which, for a time, has held together the Empires of the past.

COLONIAL LAWS VALIDITY ACT, 1865⁽²²⁾

28-29 VICTORIA, CHAPTER 63

An Act to remove Doubts as to the Validity of Colonial Laws

[29th June, 1865.]

WHEREAS doubts have been entertained respecting the validity of divers laws enacted, or purporting to be enacted by the Legislatures of certain of Her Majesty's Colonies, and respecting the powers of such Legislatures; and it is expedient that such doubts should be removed:

Be it hereby enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The term "colony" shall in this Act include all of Her Majesty's Possessions abroad, in which there shall exist a legislature as hereinafter defined, except the Channel Islands, the Isle of Man, and such territories as may for the time being be vested in Her Majesty, under or by virtue of any Act of Parliament for the government of India:

Definitions;
"Colony".

The terms "Legislature" and "Colonial Legislature" shall severally signify the authority (other than the Imperial Parliament or Her Majesty in Council), competent to make laws for any colony;

"Legisla-
ture",
"Colonial
Legislature".

(22) Common law is to be found partly in the statutes but, also, in customs, precedents and tradition. Before 1865, there existed a theory to the effect that legislation adopted by colonial legislatures should not be contrary or repugnant to the law of England. If at any time the legal lights in the United Kingdom were of opinion that a colonial law was unconstitutional because repugnant to the common law, they immediately recommended that a bill should be adopted by the Imperial Parliament to confirm the said colonial law.

This principle was recognized in Canada although not formulated in express terms in the Union Act. As the demarcation between the fundamental and non-fundamental principles of the English law was so vague that it was impossible to define it exactly in its application the Colonial Laws Validity Act was passed in 1865 to confer upon Colonial Legislatures the power of making laws even though repugnant to the English common law, but the Act declared that a Colonial law repugnant to the provisions of an Act of the Parliament of the United Kingdom extending to the Colony either by express words or by necessary intendment should be void to the extent of such repugnancy. The Act also removed doubts which had arisen regarding the validity of laws assented to by the Governor of a Colony in a manner inconsistent with the terms of his instructions.

The Act passed in 1865 for the benefit of the colonies and for the purpose of validating certain laws which might have been annulled for their repugnancy to the English common law became restrictive of the autonomy of the Dominion due to the fact that a Colonial Act repugnant to any particular law of the United Kingdom applicable to the colony was void to the extent of such repugnancy. This Act was repealed by section two of the Statute of Westminster. See notes to the Statute of Westminster, 1931 in this volume, also *Problems of Canadian Sovereignty*, by Maurice Ollivier, pages 99 to 105. (With permission of the Canada Law Book Company, Toronto.)

"Representative
Legislature."

The term "Representative Legislature" shall signify any Colonial Legislature which shall comprise a legislative body of which one-half are elected by inhabitants of the colony;

"Colonial
Law."

The term "Colonial Law" shall include laws made for any colony, either by such Legislature as aforesaid or by Her Majesty in Council;

Act of
Parliament,
etc., when
to extend
to Colony.

An Act of Parliament, or any provision thereof, shall, in construing this Act, be said to extend to any colony when it is made applicable to such colony by the express words or necessary intendment of any Act of Parliament;

"Governor."

The term "Governor" shall mean the officer lawfully administering the Government of any colony;

"Letters
Patent."

The term "Letters Patent" shall mean letters patent under the great seal of the United Kingdom of Great Britain and Ireland.

Colonial
Law when
void for
repugnancy.

2. Any colonial law, which is or shall be repugnant to the provisions of any Act of Parliament extending to the colony to which such law may relate, or repugnant to any order or regulation made under authority of such Act of Parliament, or having in the colony the force or effect of such Act, shall be read subject to such Act, order, or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

Colonial
Law when
not void for
repugnancy.

3. No colonial law shall be or be deemed to have been, void or inoperative on the ground of repugnancy to the law of England, unless the same shall be repugnant to the provisions of some such Act of Parliament, order, or regulation, as aforesaid.

Colonial
Law not
void for
incon-
sistency
with in-
structions.

4. No colonial law, passed with the concurrence of or assented to by the Governor of any colony, or to be hereafter so passed or assented to, shall be, or be deemed to have been, void or inoperative by reason only of any instructions with reference to such law, or the subject thereof, which may have been given to such Governor, by or on behalf of Her Majesty, by any instrument other than the letters patent or instrument authorizing such Governor to concur in passing or to assent to laws for the peace, order, and good government of such colony, even though such instructions may be referred to in such letters patent, or last-mentioned instrument.

Colonial
Legislatures
may estab-
lish etc.,
Courts
of Law.

5. Every colonial Legislature shall have, and be deemed at all times to have had, full power within its jurisdiction to establish courts of judicature, and to abolish and reconstitute the same, and to alter the constitution thereof, and to make provision for the administration of justice therein; and every representative Legislature shall, in respect to the colony under its jurisdiction, have, and be deemed at all times to have had, full power to make laws respecting the constitution, powers, and procedure of such Legislature; provided that such laws shall have been passed in such manner and form as may from

Representative
Legislature
may alter
Constitution.

time to time be required, by any Act of Parliament, letters patent, Order in Council, or colonial law for the time being in force in the colony.

6. The certificate of the clerk or other proper officer of a legislative body in any colony to the effect that the document to which it is attached is a true copy of any colonial law assented to by the Governor of such colony, or of any bill reserved for the signification of Her Majesty's pleasure by the said Governor, shall be prima facie evidence that the document so certified is a true copy of such law or bill, and, as the case may be, that such law has been duly and properly passed and assented to, or that such bill has been duly and properly passed and presented to the Governor; and any proclamation, purporting to be published by authority of the Governor, in any newspaper in the colony to which such law or bill shall relate, and signifying Her Majesty's disallowance of any such colonial law, or Her Majesty's assent to any such reserved bill as aforesaid, shall be prima facie evidence of such disallowance or assent.

Certified copies of laws to be evidence that they are properly passed.

Proclamation to be evidence of assent and disallowance.

And whereas doubts are entertained respecting the validity of certain Acts enacted, or reputed to be enacted, by the Legislature of South Australia: be it further enacted as follows:

7. All laws or reputed laws enacted or purporting to have been enacted by the said Legislature, or by persons or bodies of persons for the time being acting as such Legislature, which have received the assent of Her Majesty in Council, or which have received the assent of the Governor of the said Colony in the name and on behalf of Her Majesty, shall be and be deemed to have been valid and effectual from the date of such assent for all purposes whatever; provided that nothing herein contained shall be deemed to give effect to any law or reputed law which has been disallowed by Her Majesty, or has expired, or has been lawfully repealed, or to prevent the lawful disallowance or repeal of any law.

Certain Acts of Legislature of South Australia to be valid.

QUEBEC RESOLUTIONS⁽²³⁾

Report of Resolutions adopted at a Conference of Delegates from the Provinces of Canada, Nova Scotia, and New Brunswick, and the Colonies of Newfoundland and Prince Edward Island, held at the city of Quebec, October 10, 1864, as the Basis of a proposed Confederation of those Provinces and Colonies

1. The best interests and present and future prosperity of British North America will be promoted by a Federal Union under the Crown of Great Britain, provided such Union can be effected on principles just to the several Provinces.

(23) For a discussion of the Quebec resolutions see "Note *re* Conferences at Charlottetown, Quebec and London (1864-67), Note *re* Quebec Conference (1864)," by W. F. O'Connor "Report to the Speaker of the Senate, 1939," pages 22 to 36 of Annex No. 4.

2. In the Federation of the British North American Provinces the system of government best adapted under existing circumstances to protect the diversified interests of the several Provinces, and secure efficiency, harmony, and permanency in the working of the Union,—would be a General Government charged with matters of common interest to the whole country, and Local Governments for each of the Canadas and for the Provinces of Nova Scotia, New Brunswick, and Prince Edward Island, charged with the control of local matters in their respective sections, provision being made for the admission into the Union on equitable terms of Newfoundland, the Northwest Territory, British Columbia, and Vancouver.

3. In framing a Constitution for the General Government, the Conference, with a view to the perpetuation of our connexion with the Mother Country, and to the promotion of the best interests of the people of these Provinces, desire to follow the model of the British Constitution, so far as our circumstances will permit.

4. The Executive Authority or Government shall be vested in the Sovereign of the United Kingdom of Great Britain and Ireland, and be administered according to the well understood principles of the British Constitution by the Sovereign personally or by the Representative of the Sovereign duly authorized.

5. The Sovereign or Representative of the Sovereign shall be Commander-in-Chief of the Land and Naval Militia Forces.

6. There shall be a general Legislature or Parliament for the Federated Provinces, composed of a Legislative Council and a House of Commons.

7. For the purpose of forming the Legislative Council, the Federated Provinces shall be considered as consisting of three divisions:—1st, Upper Canada; 2nd, Lower Canada; 3rd, Nova Scotia, New Brunswick, and Prince Edward Island; each division with an equal representation in the Legislative Council.

8. Upper Canada shall be represented in the Legislative Council by 24 members, Lower Canada by 24 members, and the three Maritime Provinces by 24 members, of which Nova Scotia shall have 10, New Brunswick 10, and Prince Edward Island four members.

9. The Colony of Newfoundland shall be entitled to enter the proposed Union, with a representation in the Legislative Council of four members.

10. The Northwest Territory, British Columbia, and Vancouver shall be admitted into the Union, on such terms and conditions as the Parliament of the Federated Provinces shall deem equitable, and as shall receive the assent of Her Majesty; and in the case of the Province of British Columbia or Vancouver, as shall be agreed to by the Legislature of such Province.

11. The Members of the Legislative Council shall be appointed by the Crown under the Great Seal of the General Government, and shall hold office during life; if any Legislative Councillor shall, for two consecutive sessions of Parliament, fail to give his attendance in the said Council, his seat shall thereby become vacant.

12. The Members of the Legislative Council shall be British subjects by birth or naturalization, of the full age of 30 years, shall possess a continuous real property qualification of four thousand dollars over and above all incumbrances, and shall be and continue worth that sum over and above their debts and liabilities, but in the case of Newfoundland and Prince Edward Island the property may be either real or personal.

13. If any question shall arise as to the qualification of a Legislative Councillor, the same shall be determined by the Council.

14. The first selection of the Members of the Legislative Council shall be made, except as regards Prince Edward Island, from the Legislative Councils of the various Provinces, so far as a sufficient number be found qualified and willing to serve. Such Members shall be appointed by the Crown at the recommendation of the General Executive Government, upon the nomination of the respective Local Governments; and in such nomination due regard shall be had to the claims of the Members of the Legislative Council of the opposition in each Province, so that all political parties may as nearly as possible be fairly represented.

15. The Speaker of the Legislative Council (unless otherwise provided by Parliament) shall be appointed by the Crown from among the Members of the Legislative Council, and shall hold office during pleasure, and shall only be entitled to a casting vote on an equality of votes.

16. Each of the 24 Legislative Councillors representing Lower Canada in the Legislative Council of the General Legislature shall be appointed to represent one of the 24 electoral divisions mentioned in Schedule A of Chapter 1st of the Consolidated Statutes of Canada, and such Councillor shall reside or possess his qualification in the division he is appointed to represent.

17. The basis of Representation in the House of Commons shall be population, as determined by the official census every 10 years; and the number of Members at first shall be 194, distributed as follows:

Upper Canada	82
Lower Canada	65
Nova Scotia	19
New Brunswick	15
Newfoundland	8
and Prince Edward Island	5

18. Until the official census of 1871 has been made up, there shall be no change in the number of Representatives from the several sections.

19. Immediately after the completion of the census of 1871, and immediately after every decennial census thereafter, the representation from each section in the House of Commons shall be re-adjusted on the basis of population.

20. For the purpose of such re-adjustments, Lower Canada shall always be assigned 65 Members, and each of the other sections shall at each re-adjustment receive for the 10 years then next succeeding, the number of members to which it will be entitled on the same ratio of representation to population as Lower Canada will enjoy according to the census last taken by having 65 members.

21. No reduction shall be made in the number of Members returned by any section unless its population shall have decreased relatively to the population of the whole Union to the extent of five per centum.

22. In computing at each decennial period the number of Members to which each section is entitled, no fractional parts shall be considered unless when exceeding one-half the number entitling to a Member, in which case a Member shall be given for each such fractional part.

23. The Legislature of each Province shall divide such Province into the proper number of constituencies, and define the boundaries of each of them.

24. The Local Legislature of each Province may, from time to time, alter the electoral districts for the purposes of representation in the House of Commons, and distribute the Representatives to which the Province is entitled, in any manner such Legislature may think fit.

25. The number of Members may at any time be increased by the General Parliament, regard being had to the proportionate rights then existing.

26. Until provisions are made by the General Parliament all the laws which at the date of the Proclamation constituting the Union are in force in the Provinces respectively relating to the qualification and disqualification of any person to be elected or to sit or vote as a Member of the Assembly in the said Provinces respectively—and relating to the qualification or disqualification of voters, and to the oaths to be taken by voters, and to Returning Officers and their powers and duties—and relating to the proceedings at elections,—and to the period during which such elections may be continued,—and relating to the trial of controverted elections, and the proceedings incident thereto,—and relating to the vacating of seats of Members,—and the issuing and execution of new writs in case of any seat being vacated otherwise than by a dissolution,—shall respectively

apply to elections of Members to serve in the House of Commons, for places situate in those Provinces respectively.

27. Every House of Commons shall continue for five years from the day of the return of the writs choosing the same, and no longer, subject, nevertheless, to be sooner prorogued or dissolved by the Governor.

28. There shall be a Session of the General Parliament once at least in every year, so that a period of 12 calendar months shall not intervene between the last sitting of the General Parliament in one session and the first sitting thereof in the next session.

29. The General Parliament shall have power to make Laws for the peace, welfare and good Government of the Federated Provinces (saving the Sovereignty of England), and especially Laws respecting the following subjects:—

1. The public debt and property.
2. The regulation of trade and commerce.
3. The imposition or regulation of duties of customs on imports and exports, except on exports of timber, logs, masts, spars, deals, and sawn lumber, and of coal and other minerals.
4. The imposition and regulation of excise duties.
5. The raising of money by all or any other modes or systems of taxation.
6. The borrowing of money on the public credit.
7. Postal service.
8. Lines of steam or other ships, railways, canals and other works, connecting any two or more of the Provinces together, or extending beyond the limits of any Province.
9. Lines of steamships between the Federated Provinces and other countries.
10. Telegraphic communication and the incorporation of telegraph companies.
11. All such works as shall, although lying wholly within any Province, be specially declared by the Acts authorizing them to be for the general advantage.
12. The census.
13. Militia—Military and naval service and defence.
14. Beacons, buoys, and lighthouses.
15. Navigation and shipping.
16. Quarantine.
17. Sea coast and inland fisheries.
18. Ferries between any Province and a foreign country, or between any two Provinces.
19. Currency and coinage.
20. Banking, incorporation of banks, and the issue of paper money.

21. Saving banks.
22. Weights and measures.
23. Bills of exchange and promissory notes.
24. Interest.
25. Legal tender.
26. Bankruptcy and insolvency.
27. Patents of invention and discovery.
28. Copyrights.
29. Indians and lands reserved for the Indians.
30. Naturalization and aliens.
31. Marriage and divorce.
32. The criminal law, excepting the constitution of Courts of criminal jurisdiction, but including the procedure in criminal matters.
33. Rendering uniform all or any of the laws relative to property and civil rights in Upper Canada, Nova Scotia, New Brunswick, Newfoundland, and Prince Edward Island, and rendering uniform the procedure of all or any of the Courts in these Provinces; but any Statute for this purpose shall have no force or authority in any Province until sanctioned by the Legislature thereof.
34. The establishment of a General Court of Appeal for the Federated Provinces.
35. Immigration.
36. Agriculture.
37. And generally respecting all matters of a general character, not specially and exclusively reserved for the Local Governments and Legislatures.

30. The General Government and Parliament shall have all powers necessary or proper for performing the obligations of the Federated Provinces, as part of the British Empire, to Foreign Countries, arising under Treaties between Great Britain and such Countries.

31. The General Parliament may also from time to time establish additional Courts, and the General Government may appoint Judges and Officers thereof, when the same shall appear necessary or for the public advantage, in order to the due execution of the Laws of Parliament.

32. All Courts, Judges, and Officers of several Provinces shall aid, assist, and obey the General Government in the exercise of its rights and powers, and for such purposes shall be held to be Courts, Judges, and Officers of the General Government.

33. The General Government shall appoint and pay the Judges of the Superior Courts in each Province and of the County Courts of Upper Canada, and Parliament shall fix their salaries.

34. Until the Consolidation of the Laws of Upper Canada, New Brunswick, Nova Scotia, Newfoundland, and Prince Edward Island, the Judges of these Provinces appointed by the General Government shall be selected from their respective Bars.

35. The Judges of the Courts of Lower Canada shall be selected from the Bar of Lower Canada.

36. The Judges of the Court of Admiralty now receiving salaries shall be paid by the General Government.

37. The Judges of the Superior Courts shall hold their offices during good behaviour, and shall be removable only on the Address of both Houses of Parliament.

Local Government

38. For each of the Provinces there shall be an Executive Officer, styled the Lieutenant-Governor, who shall be appointed by the Governor General in Council, under the Great Seal of the Federated Provinces, during pleasure; such pleasure not to be exercised before the expiration of the first five years, except for cause, such cause to be communicated in writing to the Lieutenant-Governor immediately after the exercise of the pleasure as aforesaid, and also by Messages to both Houses of Parliament, within the first week of the first session afterwards.

39. The Lieutenant-Governor of each Province shall be paid by the General Government.

40. In undertaking to pay the salaries of the Lieutenant-Governors, the Conference does not desire to prejudice the claim of Prince Edward Island upon the Imperial Government for the amount now paid for the salary of the Lieutenant-Governor thereof.

41. The Local Government and Legislature of each Province shall be constructed in such manner as the existing Legislature of such Province shall provide.

42. The Local Legislatures shall have power to alter or amend their Constitution from time to time.

43. The Local Legislatures shall have power to make Laws respecting the following subjects:

1. Direct taxation and the imposition of duties on the export of timber, logs, masts, spars, deals, and sawn lumber, and of coals and other minerals.
2. Borrowing money on the credit of the Province.
3. The establishment and tenure of local offices, and the appointment and payment of local officers.
4. Agriculture.
5. Immigration.
6. Education; saving the rights and privileges which the Protestant or Catholic minority in both Canadas may possess as to their denominational schools at the time when the Union goes into operation.

7. The sale and management of public lands, excepting lands belonging to the General Government.
 8. Sea coast and inland fisheries.
 9. The establishment, maintenance, and management of penitentiaries, and of public and reformatory prisons.
 10. The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions.
 11. Municipal institutions.
 12. Shop, saloon, tavern, auctioneer, and other licences.
 13. Local works.
 14. The incorporation of private or local companies, except such as relate to matters assigned to the General Parliament.
 15. Property and civil rights, excepting those portions thereof assigned to the General Parliament.
 16. Inflicting punishment by fine, penalties, imprisonment, or otherwise for the breach of laws passed in relation to any subject within their jurisdiction.
 17. The administration of justice, including the constitution, maintenance, and organization of the courts, both of civil and criminal jurisdiction, and including also the Procedure in civil matters.
 18. And generally all matters of a private or local nature, not assigned to the General Parliament.
44. The power of respiting, reprieving, and pardoning prisoners convicted of crimes, and of commuting and remitting of sentences in whole or in part, which belongs of right to the Crown, shall be administered by the Lieutenant-Governor of each Province in Council, subject to any instructions he may from time to time receive from the General Government, and subject to any provisions that may be made in this behalf by the General Parliament.

Miscellaneous

45. In regard to all subjects over which jurisdiction belongs to both the General and Local Legislatures, the laws of the General Parliament shall control and supersede those made by the Local Legislature, and the latter shall be void as far as they are repugnant to or inconsistent with the former.

46. Both the English and French languages may be employed in the General Parliament and in its proceedings, and in the Local Legislature of Lower Canada, and also in the Federal Courts and in the Courts of Lower Canada.

47. No lands or property belonging to the General or Local Government shall be liable to taxation.

48. All bills for appropriating any part of the public revenue, or for imposing any new tax or impost, shall originate in the House of Commons or the House of Assembly, as the case may be.

49. The House of Commons or House of Assembly shall not originate or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue, or of any tax or impost to any purpose, not first recommended by Message of the Governor-General or the Lieutenant-Governor, as the case may be, during the session in which such vote, resolution, address, or bill is passed.

50. Any bill of the General Parliament may be reserved in the usual manner for Her Majesty's assent, and any bill of the Local Legislatures may in like manner be reserved for the consideration of the Governor-General.

51. Any bill passed by the General Parliament shall be subject to disallowance by Her Majesty within two years, as in the case of bills passed by the Legislatures of the said Provinces hitherto, and in like manner any bill passed by a Local Legislature shall be subject to disallowance by the Governor-General within one year after the passing thereof.

52. The seat of Government of the Federated Provinces shall be Ottawa, subject to the Royal Prerogative.

53. Subject to any future action of the respective Local Governments, the seat of the Local Government in Upper Canada shall be Toronto; of Lower Canada, Quebec; and the seats of the Local Governments in the other Provinces shall be as at present.

Property and Liabilities

54. All stocks, cash, bankers' balances, and securities for money belonging to each Province at the time of the Union, except as hereinafter mentioned, shall belong to the General Government.

55. The following public works and property of each Province shall belong to the General Government, to wit:—

1. Canals;
2. Public harbours;
3. Lighthouses and piers;
4. Steamboats, dredges, and public vessels;
5. River and lake improvements;
6. Railway and railway stocks, mortgages, and other debts due by railway companies;
7. Military roads;
8. Customhouses, post offices, and other public buildings, except such as may be set aside by the General Government for the use of the Local Legislatures and Governments;
9. Property transferred by the Imperial Government, and known as Ordnance property;
10. Armouries, drill sheds, military clothing, and munitions of war; and
11. Lands set apart for public purposes.

56. All lands, mines, minerals, and royalties vested in Her Majesty in the Provinces of Upper Canada, Lower Canada, Nova Scotia, New Brunswick, and Prince Edward Island, for the use of such Provinces, shall belong to the Local Government of the territory in which the same are so situate; subject to any trusts that may exist in respect to any of such lands or to any interest of other persons in respect of the same.

57. All sums due from purchasers or lessees of such lands, mines, or minerals at the time of the Union shall also belong to the local Governments.

58. All assets connected with such portions of the public debt of any Province as are assumed by the Local Governments shall also belong to those Governments respectively.

59. The several Provinces shall retain all other public property therein subject to the right of the General Government to assume any lands or public property required for fortifications or the defence of the country.

60. The General Government shall assume all the debts and liabilities of each Province.

61. The debt of Canada not specially assumed by Upper and Lower Canada respectively, shall not exceed at the time of the Union\$62,500,000

Nova Scotia shall enter the Union with a
debt not exceeding 8,000,000

And New Brunswick with a debt not
exceeding 7,000,000

62. In case Nova Scotia or New Brunswick do not incur liabilities beyond those for which their Governments are now bound, and which shall make their debts at the date of Union less than \$8,000,000 and \$7,000,000 respectively, they shall be entitled to interest at 5 per cent on the amount not so incurred, in like manner as is hereinafter provided for Newfoundland and Prince Edward Island; the foregoing Resolution being in no respect intended to limit the powers given to the respective Governments of those Provinces by legislative authority, but only to limit the maximum amount of charge to be assumed by the General Government. Provided always, that the powers so conferred by the respective Legislatures shall be exercised within five years from this date, or the same shall then lapse.

63. Newfoundland and Prince Edward Island, not having incurred debts equal to those of the other Provinces, shall be entitled to receive by half-yearly payments in advance from the General Government the interest at five per cent on the difference between the actual amount of their respective debts at the time of the Union, and the average amount of indebtedness per head of the population of Canada, Nova Scotia, and New Brunswick.

64. In consideration of the transfer to the General Parliament of the powers of taxation, an annual grant in aid of each

Province shall be made, equal to 80 cents per head of the population, as established by the census of 1861, the population of Newfoundland being estimated at 130,000. Such aid shall be in full settlement of all future demands upon the General Government for local purposes, and shall be paid half-yearly in advance to each Province.

65. The position of New Brunswick being such as to entail large immediate charges upon her local revenues, it is agreed that for the period of 10 years from the time when the Union takes effect an additional allowance of \$63,000 per annum shall be made to that Province. But that so long as the liability of that Province remains under \$7,000,000, a deduction equal to the interest on such deficiency shall be made from the \$63,000.

66. In consideration of the surrender to the General Government by Newfoundland of all its rights in mines and minerals, and of all the ungranted and unoccupied lands of the Crown, it is agreed that the sum of \$150,000 shall each year be paid to that Province, by semi-annual payments. Provided that that Colony shall retain the right of opening, constructing, and controlling roads and bridges through any of the said lands, subject to any laws which the General Parliament may pass in respect of the same.

67. All engagements that may before the Union be entered into with the Imperial Government for the defence of the country shall be assumed by the General Government.

68. The General Government shall secure without delay the completion of the Intercolonial Railway from Rivière-du-Loup through New Brunswick to Truro in Nova Scotia.

69. The communications with the Northwestern Territory and the improvements required for the development of the trade of the Great West with the Seaboard, are regarded by this Conference as subjects of the highest importance to the Federated Provinces, and shall be prosecuted at the earliest possible period that the state of the finances will permit.

70. The sanction of the Imperial and Local Parliaments shall be sought for the Union of the Provinces, on the principles adopted by the Conference.

71. That Her Majesty the Queen be solicited to determine the rank and name of the Federated Provinces.

72. The proceedings of the Conference shall be authenticated by the signatures of the Delegates, and submitted by each Delegation to its own Government, and the Chairman is authorized to submit a copy to the Governor General for transmission to the Secretary of State for the Colonies.

I certify that the above is a true copy of the original Report of Resolutions adopted in Conference.

E. P. TACHÉ,
Chairman.

LONDON RESOLUTIONS⁽²⁴⁾

Resolutions adopted at a Conference of Delegates from the Provinces of Canada, Nova Scotia, and New Brunswick, held at the Westminster Palace Hotel, London, December 4, 1866

1. The best interests and present and future prosperity of British North America will be promoted by a Federal Union under the Crown of Great Britain, provided such Union can be effected on principles just to the several provinces.

2. In the Confederation of the British North American provinces the system of government best adapted under existing circumstances to protect the diversified interests of the several provinces and secure efficiency, harmony, and permanency in the working of the Union is a General Government charged with matters of common interest to the whole country and Local Governments for each of the Canadas, and for the provinces of Nova Scotia and New Brunswick, charged with the control of local matters in their respective sections, provision being made for the admission into the Confederation on equitable terms of Newfoundland, Prince Edward Island, the Northwest Territory, and British Columbia.

3. In framing a Constitution for the General Government the Conference, with a view to the perpetuation of the connexion with the mother country, and the promotion of the best interests of the people of these Provinces, desire to follow the model of the British Constitution so far as circumstances will permit.

4. The Executive Authority or Government shall be vested in the Sovereign of the United Kingdom of Great Britain and Ireland, and be administered according to the well-understood principles of the British Constitution by the Sovereign personally, or by the representative of the Sovereign duly authorized.

5. The Sovereign shall be Commander-in-Chief of the Land and Naval Militia Forces.

6. There shall be a General Legislature or Parliament for the Confederation, composed of the Sovereign, a Legislative Council, and a House of Commons.

7. For the purpose of forming the Legislative Council the Confederation shall be considered as consisting of three divisions:—1st, Upper Canada; 2nd, Lower Canada; and 3rd Nova Scotia and New Brunswick; each division with an equal representation in the Legislative Council.

(24) For a discussion of the London Resolutions *see*

Note *re* London Conference (1866-67).

Note *re* Proceedings of London Conference (1866-67).

Detailed Comparison Quebec-London Resolutions.

Detailed Comparison London Resolutions—B.N.A. Act.

Concordance B.N.A. Act—London Resolutions and Drafts.

By W. F. O'Connor "*Report to the Speaker of the Senate, 1939,*" pages 57 to 121 of Annex No. 4.

8. Upper Canada shall be represented in the Legislative Council by 24 members, Lower Canada by 24 members, and the Maritime Provinces by 24 members, of which Nova Scotia shall have twelve and New Brunswick twelve members.

9. The Colony of Prince Edward Island when admitted into the Confederation shall be entitled to a representation of four members in the Legislative Council. But in such case the members allotted to Nova Scotia and New Brunswick shall be diminished to 10 each, such diminution to take place in each province as vacancies occur.

10. The Colony of Newfoundland when admitted into the Confederation shall be entitled to a representation in the Legislative Council of four members.

11. The Northwest Territory and British Columbia shall be admitted into the Union on such terms and conditions as the Parliament of the Confederation shall deem equitable and as shall receive the assent of the Sovereign, and in case of the Province of British Columbia as shall be agreed to by the Legislature of such Province.

12. The members of the Legislative Council shall be appointed by the Crown under the Great Seal of the General Government from among residents of the Province for which they are severally appointed, and shall hold office during life. If any legislative Councillor shall for two consecutive sessions of Parliament fail to give his attendance in the said Council his seat shall thereby become vacant.

13. The members of the Legislative Council shall be British subjects by birth or naturalization, of the full age of 30 years, shall each possess in the province for which they are appointed a continuous real property qualification of 4,000 dollars over and above all incumbrances, and shall be and continue worth that sum over and above their debts and liabilities, and shall possess a continuous residence in the province for which they are appointed, except in the case of persons holding positions which require their attendance at the seat of Government pending their tenure of office.

14. If any question shall arise as to the qualification of a legislative councillor, the same shall be determined by the Legislative Council.

15. The members of the Legislative Council for the Confederation shall in the first instance be appointed upon the nomination of the Executive Governments of Canada, Nova Scotia and New Brunswick respectively, and the number allotted to each Province shall be nominated from the Legislative Councils of the different Provinces, due regard being had to the fair representation of both political parties; but in case any member of the Local Council, so nominated, shall decline to accept it, it shall be competent for the Executive Government in any Province to nominate in his place a person who is not a member of the Local Council.

16. The Speaker of the Legislative Council (unless otherwise provided by Parliament) shall be appointed by the Crown from among the members of the Legislative Council, and shall hold office during pleasure, and shall only be entitled to a casting vote on an equality of votes.

17. Each of the twenty-four Legislative Councillors, representing Lower Canada, in the Legislative Council of the General Legislature shall be appointed to represent one of the twenty-four electoral divisions mentioned in Schedule A of Chapter 1, of the Consolidated Statutes of Canada, and such councillor shall reside or possess his qualification in the division he is appointed to represent.

18. The basis of representation in the House of Commons shall be population, as determined by the official census every ten years, and the number of members, at first, shall be 181, distributed as follows:—

Upper Canada	82
Lower Canada	65
Nova Scotia	19
New Brunswick	15

19. Until the first general election after the official census of 1871 has been made up there shall be no change in the number of representatives from the several sections.

20. Immediately after the completion of the census of 1871, and immediately after every decennial census thereafter, the representation from each Province in the House of Commons shall be re-adjusted on the basis of population, such re-adjustment to take effect upon the termination of the then existing Parliament.

21. For the purpose of such re-adjustments, Lower Canada shall always be assigned 65 members, and each of the other Provinces shall, at each re-adjustment, receive for the ten years then next succeeding the number of members to which it will be entitled on the same ratio of representation to population as Lower Canada will enjoy according to the census then last taken by having 65 members.

22. No reduction shall be made in the number of members returned by any Province unless its population shall have decreased relatively to the population of the whole Union, to the extent of 5 per centum.

23. In computing at each decennial period the number of members to which each Province is entitled, no fractional parts shall be considered, unless when exceeding one-half the number entitling to a member, in which case a member shall be given for each such fractional part.

24. The number of members may at any time be increased by the General Parliament, regard being had to the proportionate rights then existing.

25. Until provisions are made by the General Parliament, all the laws which at the date of the proclamation constituting the Union are in force in the Provinces respectively, relating to the qualification and disqualification of any person to be elected, or to sit or vote as a member of the Assembly in the said Provinces respectively, and relating to the qualification or disqualification of voters, and to the oaths to be taken by voters, and to returning officers and their powers and duties, and relating to the proceedings at elections and to the period during which such elections may be continued, and relating to the trial of controverted elections and the proceedings incident thereto and relating to the vacating of seats of members and to the issuing and execution of new writs in case of any seat being vacated otherwise than by a dissolution, shall respectively apply to elections of members to serve in the House of Commons, for places situate in those Provinces respectively.

26. Every House of Commons shall continue for five years from the day of the return of the writs choosing the same, and no longer; subject, nevertheless, to be sooner prorogued or dissolved by the Governor General.

27. There shall be a session of the General Parliament once at least in every year, so that a period of twelve calendar months shall not intervene between the last sitting of the General Parliament in one session and the first sitting thereof in the next session.

28. The General Parliament shall have power to make laws for the peace, welfare, and good government of the Confederation (saving the sovereignty of England), and especially laws respecting the following subjects:—

- (1) The public debt and property.
- (2) The regulation of trade and commerce.
- (3) The raising of money by all or any mode or system of taxation.
- (4) The borrowing of money on the public credit.
- (5) Postal service.
- (6) Lines of steam or other ships, railways, canals, and other works connecting any two or more of the Provinces together, or extending beyond the limits of any Province.
- (7) Lines of steam ships between the Confederated Provinces and other countries.
- (8) Telegraphic communication and the incorporation of telegraph companies.
- (9) All such works as shall, although lying wholly within any Province, be specially declared by the Acts authorizing them to be for the general advantage.
- (10) The census and statistics.

- (11) Militia, military and naval service and defence.
- (12) Beacons, buoys, lighthouses, and Sable Island.
- (13) Navigation and shipping.
- (14) Quarantine.
- (15) Sea coast and inland fisheries.
- (16) Ferries between any Province and a foreign country, or between any two Provinces.
- (17) Currency and coinage.
- (18) Banking, incorporation of banks, and the issue of paper money.
- (19) Savings banks.
- (20) Weights and measures.
- (21) Bills of exchange and promissory notes.
- (22) Interest.
- (23) Legal tender.
- (24) Bankruptcy and insolvency.
- (25) Patents of invention and discovery.
- (26) Copyrights.
- (27) Indians, and lands reserved for the Indians.
- (28) Naturalization and aliens.
- (29) Marriage and divorce.
- (30) The criminal law, excepting the constitution of Courts of Criminal Jurisdiction, but including the procedure in criminal matters.
- (31) The establishment, maintenance, and management of penitentiaries.
- (32) Rendering uniform all or any of the laws relative to property and civil rights in Upper Canada, Nova Scotia, and New Brunswick, and rendering uniform the procedure of all or any of the Courts in these Provinces; but any statute for this purpose shall have no force or authority in any Province until sanctioned by the Legislature thereof; and the power of repealing, amending or altering such laws shall henceforward remain with the General Parliament only.
- (33) The establishment of a General Court of Appeal for the Confederation.
- (34) Immigration.
- (35) Agriculture.
- (36) And generally respecting all matters of a general character not specially and exclusively reserved for the Local Legislatures.

29. The General Government and Parliament shall have all powers necessary or proper for performing the obligations of the Confederation, as part of the British Empire, to Foreign countries arising under treaties between Great Britain and such countries.

30. The powers and privileges of the House of Commons of the United Kingdom of Great Britain and Ireland shall be held to appertain to the House of Commons of the Confederation and the powers and privileges appertaining to the House of Lords in its legislative capacity shall be held to appertain to the Legislative Council.

31. The General Parliament may from time to time establish additional courts, and the General Government may appoint judges and officers thereof, when the same shall appear necessary or for the public advantage, in order to the due execution of the laws of such Parliament.

32. All Courts, judges and officers of the several Provinces shall aid, assist, and obey the General Government in the exercise of its rights and powers, and for such purposes shall be held to be courts, judges, and officers of the General Government.

33. The General Government shall appoint and pay the salaries of the judges of the superior and district and county Courts in each Province, and Parliament shall fix their salaries.

34. Until the consolidation of the laws of Upper Canada, Nova Scotia, and New Brunswick, the judges of these Provinces appointed by the General Government shall be selected from their respective bars.

35. The judges of the courts of Lower Canada shall be selected from the bar of Lower Canada.

36. The judges of the Court of Admiralty shall be paid by the General Government.

37. The judges of the Superior Courts shall hold their offices during good behaviour, and shall be removable on the address of both Houses of Parliament.

38. For each of the Provinces there shall be an executive officer styled the Governor, who shall be appointed by the Governor-General in Council, under the Great Seal of the Confederation, during pleasure; such pleasure not to be exercised before the expiration of the first five years except for cause, such cause to be communicated in writing to the Governor immediately after the exercise of the pleasure as aforesaid, and also by message to both Houses of Parliament within the first week of the first session afterwards, but the appointment of the first Governors shall be provisional and they shall hold office strictly during pleasure.

39. The Governor of each Province shall be paid by the General Government.

40. The Local Government and Legislature of each Province shall be constructed in such manner as the Legislature of each such Province shall provide.

41. The Local Legislature shall have power to make laws respecting the following subjects:—

- (1) The altering or amending their constitution from time to time.
- (2) Direct taxation, and in the case of New Brunswick the right of levying timber dues by the mode and to the extent now established by law, provided such timber is not the produce of the other Provinces.
- (3) Borrowing money on the credit of the Province.
- (4) The establishment and tenure of local offices, and the appointment and payment of local officers.
- (5) Agriculture.
- (6) Immigration.
- (7) Education, saving the rights and privileges which the Protestant or Catholic minority in any Province may have by law as to denominational schools at the time when the Union goes into operation. And in any Province where a system of separate or dissentient schools by law obtains, or where the Local Legislation may hereafter adopt a system of separate or dissentient schools, an appeal shall lie to the Governor-General in Council of the General Government, from the acts and decisions of the local authorities, which may affect the rights or privileges of the Protestant or Catholic minority in the matter of education. And the General Parliament shall have power in the last resort to legislate on the subject.
- (8) The sale and management of public lands, excepting lands belonging to the General Government.
- (9) The establishment, maintenance, and management of public and reformatory prisons.
- (10) The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions, except marine hospitals.
- (11) Municipal institutions.
- (12) Shop, saloon, tavern, auctioneer, and other licences for local revenue.
- (13) Local works.
- (14) The incorporation of private or local companies, except such as relate to matters assigned to the General Parliament.
- (15) Property and civil rights (including the solemnization of marriage), excepting portions thereof assigned to the General Parliament.
- (16) Inflicting punishment by fine, penalties, imprisonment, or otherwise, for the breach of laws passed in relation to any subject within their jurisdiction.

- (17) The administration of justice, including the constitution, maintenance, and organization of the courts, both of civil and criminal jurisdiction, and including also the procedure in civil matters.
- (18) And generally all matters of a private or local nature not assigned to the General Parliament.

42. All the powers, privileges, and duties conferred and imposed upon Catholic separate schools and school trustees in Upper Canada, shall be extended to the Protestant and Catholic dissentient schools in Lower Canada.

43. The power of respiting, reprieving, and pardoning prisoners convicted of crimes, and of commuting and remitting of sentences, in whole or in part, which belongs of right to the Crown, shall, except in capital cases, be administered by the Governor of each Province in Council, subject to any instructions he may from time to time receive from the General Government, and subject to any provisions that may be made in this behalf by the General Parliament.

44. In regard to all subjects over which jurisdiction belongs to both the General and Local Legislatures, the laws of the General Parliament shall control and supersede those made by the Local Legislature, and the latter shall be void so far as they are repugnant to or inconsistent with the former.

45. Both the English and French languages may be employed in the General Parliament, and in its proceedings, and in the Local Legislature of Lower Canada, and also in the Federal courts, and in the courts of Lower Canada.

46. No lands or property belonging to the General or Local Governments shall be liable to taxation.

47. All Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons or House of Assembly as the case may be.

48. The House of Commons or House of Assembly shall not originate or pass any vote, resolution, address, or Bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose not first recommended by message of the Governor-General or the Governor, as the case may be, during the session in which such vote, resolution, address, or Bill is passed.

49. Any Bill of the General Parliament may be reserved in the usual manner for Her Majesty's assent, and any Bill of the Local Legislatures may, in like manner, be reserved for the consideration of the Governor-General.

50. Any Bill passed by the General Parliament shall be subject to disallowance by Her Majesty within two years, as in the case of Bills passed by the Legislatures of the said Provinces hitherto; and in like manner any Bill passed by a

Local Legislature shall be subject to disallowance by the Governor-General within one year after the passing thereof.

51. The seat of Government of the Confederation shall be Ottawa, subject to the Royal Prerogative.

52. Subject to any future action of the respective Local Governments, the seat of the Local Governments in Upper Canada shall be Toronto; of Lower Canada Quebec; and the seats of the Local Governments of the other Provinces shall be as at present.

53. All stocks, cash, bankers' balances, and securities for money belonging to each Province at the time of the Union, except as hereinafter mentioned, shall belong to the General Government.

54. The following public works and property of each Province shall belong to the General Government, to wit:—

- (1) Canals.
- (2) Public harbours.
- (3) Lighthouses and piers, and Sable Island.
- (4) Steamboats, dredges, and public vessels.
- (5) Rivers and lake improvements.
- (6) Railways and railway stocks, mortgages, and other debts due by railway companies.
- (7) Military roads.
- (8) Customhouses, post offices, and all other public buildings, except such as may be set aside by the General Government for the use of the Local Legislatures and Governments.
- (9) Property transferred by the Imperial Government and known as Ordnance property.
- (10) Armouries, drill sheds, military clothing and munitions of war; and lands set apart for general public purposes.

55. All lands, mines, minerals, and royalties vested in Her Majesty in the Provinces of Upper Canada, Lower Canada, Nova Scotia, and New Brunswick, for the use of such Provinces, shall belong to the Local Government of the territory in which the same are so situate, subject to any trusts that may exist in respect of any such lands, or to any interest of other persons in respect of the same.

56. All sums due from purchasers or lessees of such lands, mines, or minerals at the time of the Union shall also belong to the Local Government.

57. All assets connected with such portions of the public debt of any Province as are assumed by the Local Governments, shall also belong to those Governments respectively.

58. The several Provinces shall retain all other public property therein subject to the right of the General Government to assume any lands or public property required for fortifications or the defence of the country.

59. The General Government shall assume the debts and liabilities of each Province.

60. The debt of Canada, not specially assumed by Upper and Lower Canada respectively shall not exceed at the time of the Union 62,500,000 dollars. Nova Scotia shall enter the Union with a debt not exceeding 8,000,000 dollars, and New Brunswick with a debt not exceeding 7,000,000 dollars. But this stipulation is in no respect intended to limit the powers given to the respective Governments of those Provinces by legislative authority, but only to determine the maximum amount of charge to be assumed by the General Government.

61. In case Nova Scotia or New Brunswick should not have contracted debts at the date of Union equal to the amount with which they are respectively entitled to enter the Confederation, they shall receive by half-yearly payments in advance from the General Government the interest at 5 per cent on the difference between the actual amount of their respective debts and such stipulated amounts.

62. In consideration of the transfer to the General Parliament of the powers of taxation, the following sums shall be paid by the General Government to each Province for the support of their Local Governments and Legislatures:—

Upper Canada	\$ 80,000
Lower Canada	70,000
Nova Scotia	60,000
New Brunswick	50,000
<hr/>	
Total	\$ 260,000

And an annual grant in aid of each Province shall be made equal to 80 cents per head of the population, as established by the census of 1861; and in the case of Nova Scotia and New Brunswick by each subsequent decennial census, until the population of each of those Provinces shall amount to 400,000 souls, at which rate it shall thereafter remain. Such aid shall be in full settlement of all future demands upon the General Government for local purposes, and shall be paid half-yearly in advance to each Province; but the General Government shall deduct from such subsidy all sums paid as interest on the public debt of any Province in excess of the amount provided under the 60th resolution.

63. The position of New Brunswick being such as to entail large immediate charges upon her local revenues, it is agreed that for the period of ten years from the time when the Union takes effect an additional allowance of 63,000 dollars per annum

shall be made to that Province; but that so long as the liability of that Province remains under 7,000,000 dollars, a deduction equal to the interest on such deficiency shall be made from the 63,000 dollars.

64. All engagements that may before the Union be entered into with the Imperial Government for the defence of the country shall be assumed by the General Government.

65. The construction of the Intercolonial Railway being essential to the consolidation of the Union of British North America, and to the assent of the Maritime Provinces thereto, it is agreed that provision be made for its immediate construction by the General Government, and that the Imperial guarantee for £3,000,000 sterling pledged for this work be applied thereto, so soon as the necessary authority has been obtained from the Imperial Parliament.

66. The communication with the Northwestern Territory, and the improvements required for the development of the trade of the great west with the seaboard, are regarded by this Conference as subjects of the highest importance to the Confederation, and shall be prosecuted at the earliest possible period that the state of the finances will permit.

67. The sanction of the Imperial Parliament shall be sought for the Union of the Provinces on the principles adopted by this Conference.

68. That Her Majesty the Queen be solicited to determine the rank and name of the Confederation.

69. That a copy of these resolutions, signed by the Chairman and Secretary of the Conference, be transmitted to the Right Honourable the Secretary of State for the Colonies.

(Signed) JOHN A. MACDONALD,
Chairman;

H. BERNARD,
Secretary.

PART II

**BRITISH NORTH AMERICA ACT
AND AMENDMENTS**

1867 - 1960

**TOGETHER WITH OTHER ACTS RELATING TO
THE FORMATION AND ESTABLISHMENT
OF CONFEDERATION**

AND WITH

THE STATUTE OF WESTMINSTER, 1931

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* This is a Canadian statute. It appears amongst the Acts of the United Kingdom so as to keep together all amendments to the British North America Act, 1867. The same Act is to be found also in the Revised Statutes of Canada, 1952, as chapter 304.

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ANNO TRICESIMO

VICTORIÆ REGINÆ.

C A P. III.

An Act for the Union of *Canada, Nova Scotia, and New Brunswick*, and the Government thereof; and for Purposes connected therewith.

WHEREAS the Provinces of *Canada, Nova Scotia, and New Brunswick* have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of *Great Britain and Ireland*, with a Constitution similar in Principle to that of the United Kingdom:

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the *British Empire*:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of *British North America*:

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual

C

and

129th March 1867,

THE BRITISH NORTH AMERICA ACT, 1867⁽¹⁾

30-31 VICTORIA, CHAPTER 3

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith

[29th March, 1867.]

(Consolidation)

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland⁽²⁾, with a Constitution similar in Principle to that of the United Kingdom:

AND WHEREAS such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

AND WHEREAS on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

AND WHEREAS it is expedient that Provision be made for the eventual admission into the Union of other Parts of British North America:

(3)

(1) "The B.N.A. Act, 1867, was drafted upon the basis of the London Resolutions of 1866-67 by the London Conference of delegates of the three provinces The Act, as a whole, is as much the work of the London Conference as any or all of the resolutions prepared in advance of it and for its purposes." Report to the Speaker of the Senate (session of 1939) by the Parliamentary Counsel (W. F. O'Connor), Annex I, p. 5.

(2) The Imperial Conference of 1926 unanimously recommended that His Majesty's title should be "George V, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India".

The *Royal and Parliamentary Titles Act, 1927*, which provided for the alteration of the Royal Style and Titles was assented to on the 12th of April, 1927 and is found in chapter 4 of the Statutes of the U.K. of G.B. and Northern Ireland for that year. See c. 72 of the Statutes of Canada, 1947, and also c. 9 of the Statutes of Canada, 1952-53 in Part V of this volume and the notes thereto.

(3) The enacting clause was repealed by the Statute Law Revision Act, 1893, 56 Vict., c. 14, of the Statutes of the United Kingdom of Great Britain and Ireland. It was as follows:—

"Be it therefore enacted and declared by the Queen's Most Excellent Majesty, by and with the advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:—"

I. PRELIMINARY

Short title. 1. This Act may be cited as the British North America Act, 1867.

2. Repealed. *See Note* ⁽⁴⁾ *below*.

II. UNION

Declaration of Union. 3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a Day therein appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, of Nova Scotia, and New Brunswick shall form and be One Dominion under the name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly.

4. unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.⁽⁵⁾

Four Provinces. 5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.⁽⁶⁾

Provinces of Ontario and Quebec. 6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces.

(4) Section 2 was repealed by the Statute Law Revision Act of 1893 (c. 14). It read as follows:—

"2. The provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland."

(5) Part of section 4 was repealed by the *Statute Law Revision Act of 1893* (c. 14). The lines repealed read as follows:—

"4. The subsequent provisions of this Act, shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the Day appointed for the Union taking effect in the Queen's Proclamation: and in the same Provisions,"

(6) Canada now consists of ten provinces (Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Prince Edward Island, Alberta, Saskatchewan and Newfoundland) and two territories (the Yukon Territory and the Northwest Territories).

The first territories added to the Union were Rupert's Land and the North-Western Territory (subsequently designated the Northwest Territories), which were admitted pursuant to section 146 of the *British North America Act, 1867* and the *Rupert's Land Act, 1868*, 31-32 Vict., c. 105 (U.K.), by Order in Council of June 23, 1870, effective July 15, 1870. Prior to the admission of these territories the Parliament of Canada enacted the *Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada* (32-33 Vict., c. 3), and the *Manitoba Act* (33 Vict., c. 3), which provided for the formation of the Province of Manitoba.

British Columbia was admitted into the Union pursuant to section 146 of the *British North America Act, 1867*, by Order in Council of May 16, 1871, effective July 20, 1871.

Prince Edward Island was admitted pursuant to section 146 of the *British North America Act, 1867*, by Order in Council of June 26, 1873, effective July 1, 1873.

The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

7. The Provinces of Nova Scotia and New Brunswick shall have the same Limits as at the passing of this Act.

Provinces of
Nova Scotia
and New
Brunswick.

8. In the general Census of the population of Canada which is hereby required to be taken in the Year One thousand eight hundred and seventy-one, and in every Tenth Year thereafter, the respective Populations of the Four Provinces shall be distinguished.

Decennial
Census.

III. EXECUTIVE POWER

9. The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

Declaration
of Executive
Power in the
Queen.

10. The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the time being of Canada, or other the Chief Executive Officer or Administrator for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever Title he is designated.⁽⁷⁾

Application
of Pro-
visions
referring to
Governor
General.

On June 29, 1871, the United Kingdom Parliament enacted the *British North America Act, 1871* (34-35 Vict., c. 28) authorizing the creation of additional provinces out of territories not included in any province. Pursuant to this statute, the Parliament of Canada enacted *The Alberta Act* (July 20, 1905, 4-5 Edw. VII, c. 3) and *The Saskatchewan Act* (July 20, 1905, 4-5 Edw. VII, c. 42), providing for the creation of the provinces of Alberta and Saskatchewan respectively. Both these Acts came into force on Sept. 1, 1905.

Meanwhile, all remaining British possessions and territories in North America and the islands adjacent thereto, except the colony of Newfoundland and its dependencies, were admitted into the Canadian Confederation by Order in Council dated July 31, 1880.

The Parliament of Canada added portions of the Northwest Territories to the adjoining provinces in 1912 by *The Ontario Boundaries Extension Act*, 2 Geo. V, c. 40, *The Quebec Boundaries Extension Act, 1912*, 2 Geo. V, c. 45 and *The Manitoba Boundaries Extension Act, 1912*, 2 Geo. V, c. 32, and further additions were made to Manitoba by *The Manitoba Boundaries Extension Act, 1930*, 20-21 Geo. V, c. 28.

The Yukon Territory was created out of the Northwest Territories in 1898 by *The Yukon Territory Act*, 61 Vict., c. 6 (Canada).

Newfoundland was added on March 31, 1949, by the *British North America Act, 1949* (U.K.), 12-13 Geo. VI, c. 22, which ratified the Terms of Union between Canada and Newfoundland.

(This note is copied from "A Consolidation of The British North America Acts, 1867 to 1952" by Elmer A. Driedger, Q.C., B.A., LL.B., Deputy Minister of Justice, Ottawa.)

(7) The position of Governor General was defined in the Report of the Imperial Conference of 1926 (p. 14) and the Report of the Conference of 1930 provided for the constitutional practice *in re* responsibility, communications, manner and instruments of appointment (pp. 26 and 27).

Constitution
of Privy
Council for
Canada.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from time to time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from time to time removed by the Governor General.

All Powers
under Acts
to be exer-
cised by
Governor
General
with advice
of Privy
Council or
alone.

12. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exercisable by the Governor General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Members thereof, or by the Governor General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.⁽⁸⁾

Application
of Provisions
referring to
Governor
General in
Council.

13. The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the Advice of the Queen's Privy Council for Canada.

Power to
Her Majesty
to authorize
Governor
General to
appoint
Deputies.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from time to time to appoint any Person or any Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of Canada, and in that Capacity to exercise during the Pleasure of the Governor General such of the Powers, Authorities, and Functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any Limitations or Directions expressed or given by the Queen; but the Appointment of such a Deputy or Deputies shall not affect the Exercise by the Governor General himself of any Power, Authority, or Function.

(8) See the notes to s. 129, *infra*.

15. The Commander-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

Command of Armed Forces to continue to be vested in the Queen.

16. Until the Queen otherwise directs the Seat of Government of Canada shall be Ottawa.

Seat of Government of Canada.

IV. LEGISLATIVE POWER

17. There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Constitution of Parliament of Canada.

18. The privileges, immunities, and powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.⁽⁹⁾

Privileges, etc., of Houses. Rep. and new 1875 38-39 Vict., c. 38, s. 1.

19. The Parliament of Canada shall be called together not later than Six Months after the Union.⁽¹⁰⁾

First Session of the Parliament of Canada.

20. There shall be a Session of the Parliament of Canada once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Parliament in one Session and its first Sitting in the next Session.⁽¹¹⁾

Yearly Session of the Parliament of Canada.

(9) Section 18 dealing with the privileges, immunities, etc., of both Houses was repealed in 1875 (*Parliament of Canada Act, 1875*, 38-39 Vict., c. 38 (U.K.)) and section 18 above was substituted therefor. The repealed section formerly read as follows:—

“18. *The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the Members thereof respectively shall be such as are from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the Members thereof.*”

See also s. 4 of the *Senate and House of Commons Act*, R.S., 1952, c. 249 in Part V of this volume.

(10) This section is spent. The first session of the first Parliament began on November 6, 1867. (Note by E. A. Driedger.)

(11) The term of the twelfth Parliament was extended by the *British North America Act, 1916*, 6-7 Geo. V, c. 19 (U.K.), which Act was repealed by the *Statute Law Revision Act, 1927*, 17-18 Geo. V, c. 42 (U.K.). (This note by E. A. Driedger, *op. cit.*)

The Senate

Number of
Senators.

21. *The Senate shall, subject to the Provisions of this Act, consist of Seventy-two Members, who shall be styled Senators.*⁽¹²⁾

Representa-
tion of
Provinces
in Senate.

22. *In relation to the Constitution of the Senate, Canada shall be deemed to consist of Three Divisions:*

1. *Ontario;*

2. *Quebec;*

3. *The Maritime Provinces, Nova Scotia and New Brunswick; which Three Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by Twenty-four Senators; Quebec by Twenty-four Senators; and the Maritime Provinces by Twenty-four Senators, Twelve thereof representing Nova Scotia, and Twelve thereof representing New Brunswick.*

In the case of Quebec each of the Twenty-four Senators representing that Province shall be appointed for One of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to Chapter One of the Consolidated Statutes of Canada.⁽¹³⁾

(12) The number of senators has now been increased to 102 but it is provided that the number shall not at any time exceed 110.

This was done by the *British North America Act, 1915* (5-6 Geo. V, 45) and by the *British North America (No. 1) Act, 1949*, 12-13 Geo. VI, c. 22 of the Statutes of the U.K. (c. 1 of the Statutes of Canada, 1949, 1st sess.). See these Acts for further information.

Subparagraphs (i) and (v) of subsection one of section one of the first Act read as follows:—

“(i) The number of Senators provided for under section twenty-one of the *British North America Act, 1867*, is increased from seventy-two to ninety-six:”

“(v) The number of Senators shall not at any time exceed one hundred and four.”

Paragraph 4 of the Terms of Union of Newfoundland with Canada provides that “The Province of Newfoundland shall be entitled to be represented in the Senate by six members, . . .”

(13) The Senate now includes representatives of Prince Edward Island and also a fourth division comprising the western provinces of Manitoba, British Columbia, Alberta and Saskatchewan, and also representatives from Newfoundland. (See note above.)

Subparagraph (ii) of subsection one of section one of the amending Act of 1915 reads as follows:—

“(ii) The Divisions of Canada in relation to the constitution of the Senate provided for by section twenty-two of the said Act are increased from three to four, the Fourth Division to comprise the Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta, which four Divisions shall (subject to the provisions of the said Act and of this Act) be equally represented in the Senate, as follows:—Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six

23. The Qualification of a Senator shall be as follows: Qualifica-
tions of
Senator.

- (1) He shall be of the full age of Thirty Years:
- (2) He shall be either a Natural-born Subject of the Queen, or a Subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of One of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada, after the Union:
- (3) He shall be legally or equitably seised as Freehold for his own Use and Benefit of Lands or Tenements held in free and common Socage, or seised or possessed for his own Use and Benefit of Lands or Tenements held in Franc-alleu or in Roture, within the Province for which he is appointed, of the Value of Four thousand Dollars, over and above all Rents, Dues, Debts, Charges, Mortgages, and Incumbrances due or payable out of or charged on or affecting the same:
- (4) His Real and Personal Property shall be together worth Four thousand Dollars over and above his Debts and Liabilities:
- (5) He shall be resident in the Province for which he is appointed:
- (6) In the case of Quebec he shall have his Real Property Qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.

24. The Governor General shall from time to time, in the Queen's Name, by instrument under the Great Seal of Canada, summon qualified Persons to the Senate; and, subject to the Provisions of this Act, every Person so summoned shall become and be a Member of the Senate and a Senator. Summons of
Senator.

25. Repealed. See Note ⁽¹⁴⁾ below:—

26. If at any time on the Recommendation of the Governor General the Queen thinks fit to direct that Three or Six Members be added to the Senate. the Governor General may by Summons to *Three or Six* qualified Persons (as the Case Addition of
Senators in
certain
cases.

thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta:—

The Parliament of Canada may provide representation in the Senate and in the House of Commons of any territories which are not in any province. See B.N.A. Act, 1886. (49-50 Vict., c. 35.)

(14) Section 25 was repealed by the Statute Law Revision Act of 1893, c. 14 (56 Vict., c. 14). It read as follows:—

“25. Such Persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their Names shall be inserted in the Queen's Proclamation of Union.”

may be), representing equally the *Three Divisions of Canada*, add to the Senate accordingly.⁽¹⁵⁾

Reduction of Senate to normal number.

27. In case of such Addition being at any time made the Governor General shall not summon any Person to the Senate, except on a further like Direction by the Queen on the like Recommendation, until each of the *Three Divisions of Canada* is represented by Twenty-four Senators and no more.⁽¹⁶⁾

Maximum number of Senators.

28. The Number of Senators shall not at any time exceed *Seventy-eight*.⁽¹⁷⁾

Tenure of Place in Senate.

29. A Senator shall, subject to the Provisions of this Act, hold his Place in the Senate for Life.

Resignation of Place in Senate.

30. A Senator may by Writing under his Hand addressed to the Governor General resign his Place in the Senate, and thereupon the same shall be vacant.

Disqualification of Senators.

31. The Place of a Senator shall become vacant in any of the following Cases:—

- (1) If for Two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate:
- (2) If he takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Subject or Citizen, of a Foreign Power:

(15) The number of persons who may be summoned to the Senate has been increased from three or six to four or eight representing equally the four divisions of Canada.

See s. 1 of the B.N.A. Act of 1915 (5-6 Geo. V, c. 45), subparagraph (iii) of s. 1 of which reads as follows:—

“(iii) *The number of persons whom by section twenty-six of the said Act the Governor General of Canada may, upon the direction of His Majesty the King, add to the Senate is increased from three or six to four or eight, representing equally the four divisions of Canada.*”

(16) The Act of 1915, above mentioned, supersedes this section by the enactment of subparagraph (iv) of section 1 which reads as follows:—

“(iv) *In case of such addition being at any time made the Governor General of Canada shall not summon any person to the Senate except upon a further like direction by His Majesty the King on the like recommendation to represent one of the four Divisions until such Division is represented by twenty-four senators and no more.*”

(17) Subparagraph (v) of subsection 1 of s. 1 of the B.N.A. Act of 1915 which supersedes s. 28 reads as follows:—

“(v) The number of Senators shall not at any time exceed one hundred and four.”

This again is superseded by the B.N.A. Act, 1949 (12-13 Geo. VI), c. 22 of the Statutes of 1949 (U.K.) so that the section now reads:

“28. The number of Senators shall not at any time exceed One Hundred and Ten.”

See also Note to s. 147. It is provided in the Act of 1915 that in the case of the admission of Newfoundland to the Union that “*the normal number of Senators shall be one hundred and two, and their maximum number one hundred and ten*”. See Note to ss. 21 and 22.

- (3) If he is adjudged Bankrupt or Insolvent, or applies for the Benefit of any Law relating to Insolvent Debtors, or becomes a public Defaulter:
- (4) If he is attainted of Treason or convicted of Felony or of any infamous Crime:
- (5) If he ceases to be qualified in respect of Property or of Residence; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of Residence by reason only of his residing at the Seat of the Government of Canada while holding an Office under that Government requiring his Presence there.

32. When a vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy.

Summons on Vacancy in Senate.

33. If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate.

Questions as to Qualifications and Vacancies in Senate.

34. The Governor General may from time to time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his Stead.⁽¹⁸⁾

Appointment of Speaker of Senate.

35. Until the Parliament of Canada otherwise provides, the Presence of at least Fifteen Senators, including the Speaker, shall be necessary to constitute a Meeting of the Senate for the Exercise of its Powers.

Quorum of Senate.

36. Questions arising in the Senate shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative.

Voting in Senate.

The House of Commons⁽¹⁹⁾

37. *The House of Commons shall, subject to the Provisions of this Act, consist of One hundred and eighty-one Members, of whom Eighty-two shall be elected for Ontario, Sixty-five for Quebec, Nineteen for Nova Scotia, and Fifteen for New Brunswick.*⁽²⁰⁾

Constitution of House of Commons in Canada.

(18) Provision for exercising the functions of Speaker during his absence is made by the *Speaker of the Senate Act*, R.S.C. 1952, c. 255. Doubts as to the power of Parliament to enact such an Act were removed by the *Canadian Speaker (Appointment of Deputy) Act*, 1895, 59 Vict., c. 3 (U.K.). (This note by E. A. Driedger, *op. cit.*)

(19) See the last lines of note (13).

(20) These numbers have been considerably altered under s. 51 of this Act. The basis of redistribution has been changed by the Imperial Act of 1946, *infra*. A new Act respecting the readjustment of representation was passed by the Parliament of Canada in 1952 which replaced the Act of 1946, *infra*.

Summon-
ing of House
of Commons.

38. The Governor General shall from time to time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon and call together the House of Commons.

Senators not
to sit in
House of
Commons.

39. A Senator shall not be capable of being elected or of sitting or voting as a Member of the House of Commons.

Electoral
districts
of the four
Provinces.

40. *Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the Purposes of the Election of Members to serve in the House of Commons, be divided into Electoral Districts as follows:—*⁽²¹⁾

1. Ontario

Ontario shall be divided into the Counties, Ridings of Counties, Cities, Parts of Cities, and Towns enumerated in the First Schedule to this Act, each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return One Member.

2. Quebec

Quebec shall be divided into Sixty-five Electoral Districts, composed of the Sixty-five Electoral Divisions into which Lower Canada is at the passing of this Act divided under Chapter Two of the Consolidated Statutes of Canada, Chapter Seventy-five of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the Twenty-third Year of the Queen, Chapter One, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the Purposes of this Act an Electoral District entitled to return One Member.

3. Nova Scotia

Each of the Eighteen Counties of Nova Scotia shall be an Electoral District. The County of Halifax shall be entitled to return Two Members, and each of the other Counties One Member.

4. New Brunswick

Each of the Fourteen Counties into which New Brunswick is divided, including the City and County of St. John, shall be

(21) The Act passed in 1952 respecting the readjustment of representation in the House of Commons is now c. 304 of the Revised Statutes of Canada, 1952. Consequential to this Act a new Representation Act was passed by Parliament (c. 48 of the Statutes of 1952, and now c. 334 of the Revised Statutes of Canada, 1952).

In accordance with the said Act there are now 85 members for Ontario, 75 for Quebec, 12 for Nova Scotia, 10 for New Brunswick, 14 for Manitoba, 22 for British Columbia, 4 for Prince Edward Island, 17 for Saskatchewan, 17 for Alberta, 7 for Newfoundland, 1 for the Yukon, 1 for the Mackenzie District and the Northwest Territories, in all 265 members.

an Electoral District. The City of St. John shall also be a separate Electoral District. Each of those Fifteen Electoral Districts shall be entitled to return One Member.

41. Until the Parliament of Canada otherwise provides, all Laws in force in the several Provinces at the Union relative to the following Matters or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the House Assembly or Legislative Assembly in the several Provinces, the Voters at Elections of such Members, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which Elections may be continued, the Trial of controverted Elections, and Proceedings incident thereto, the vacating of Seats of Members, and the Execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the House of Commons for the same several Provinces.

Continuance
of existing
Election
Laws until
Parliament
of Canada
otherwise
provides.

Provided that, until the Parliament of Canada otherwise provides, at any Election for a Member of the House of Commons for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.⁽²²⁾

42. Repealed. See Note ⁽²³⁾ below.

43. Repealed. See Note ⁽²⁴⁾ below.

(22) See the *Canada Elections Act*, c. 39 of the Statutes of Canada, 1960, for qualifications of voters at elections to the House of Commons.

(23) Section 42 was repealed by the Statute Law Revision Act of 1893 (56 Vict., c. 14). It read as follows:—(See pp. 103-5).

“42. For the First Election of Members to serve in the House of Commons the Governor General shall cause writs to be issued by such Person, in such Form, and addressed to such Returning Officers as he thinks fit.

The Person issuing writs under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the issuing of Writs for the Election of Members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the Returning Officers to whom Writs are directed under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the returning of Writs for the Election of Members to serve in the same respective House of Assembly or Legislative Assembly.”

(24) Section 43 was repealed by the Statute Law Revision Act of 1893 and formerly read as follows:—(See pp. 103-5).

“43. In case a Vacancy in the Representation in the House of Commons of any Electoral District happens before the Meeting of the Parliament, or after the Meeting of the Parliament before Provision is made by the Parliament in this Behalf, the Provisions of the last foregoing Section on this Act shall extend and apply to the issuing and returning of a Writ in respect of such Vacant District.”

As to Election of Speaker of House of Commons.

44. The House of Commons on its first assembling after a General Election shall proceed with all practicable Speed to elect One of its Members to be Speaker.

As to filling up Vacancy in Office of Speaker.

45. In case of a Vacancy happening in the Office of Speaker by Death, Resignation, or otherwise, the House of Commons shall with all practicable Speed proceed to elect another of its Members to be Speaker.

Speaker to preside.

46. The Speaker shall preside at all Meetings of the House of Commons.

Provision in case of absence of Speaker.

47. Until the Parliament of Canada otherwise provides, in case of the Absence for any Reason of the Speaker from the Chair of the House of Commons for a period of Forty-eight consecutive Hours, the House may elect another of its Members to act as Speaker, and the Member so elected shall during the Continuance of such Absence of the Speaker have and execute all the Powers, Privileges, and Duties of Speaker.

Quorum of House of Commons.

48. The Presence of at least Twenty Members of the House of Commons shall be necessary to constitute a Meeting of the House for the Exercise of its Powers; and for that Purpose the Speaker shall be reckoned as a Member.

Voting in House of Commons.

49. Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote.

Duration of House of Commons.

50. Every House of Commons shall continue for Five Years from the Day of the Return of the Writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer.

Readjustment of representation in Commons.

51. (1) Subject as hereinafter provided, the number of members of the House of Commons shall be two hundred and sixty-three and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:

Rules.

1. There shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and sixty-one and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division.

Rep. and new R.S., 1952, c. 304.

2. If the total number of members assigned to all the provinces pursuant to rule 1 is less than two hundred and sixty-one, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule 1 commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and sixty-one.

3. Notwithstanding anything in this section, if upon completion of a computation under rules 1 and 2, the number of members to be assigned to a province is less than the number of senators representing the said province, rules 1 and 2 shall cease to apply in respect of the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.

4. In the event that rules 1 and 2 cease to apply in respect of a province then, for the purpose of computing the number of members to be assigned to the provinces in respect of which rules 1 and 2 continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules 1 and 2 have ceased to apply and the number two hundred and sixty-one shall be reduced by the number of members assigned to such province pursuant to rule 3.

5. On any such readjustment the number of members for any province shall not be reduced by more than fifteen per cent below the representation to which such province was entitled under rules 1 to 4 of this subsection at the last preceding readjustment of the representation of that province, and there shall be no reduction in the representation of any province as a result of which that province would have a smaller number of members than any other province that according to the results of the then last decennial census did not have a larger population; but for the purposes of any subsequent readjustment of representation under this section any increase in the number of members of the House of Commons resulting from the application of this rule shall not be included in the divisor mentioned in rules 1 to 4 of this subsection.

6. Such readjustment shall not take effect until the termination of the then existing Parliament.

(2) The Yukon Territory as constituted by chapter 41 of the Statutes of Canada, 1901, shall be entitled to one member, and such other part of Canada not comprised within a province

Yukon Territory and other part not comprised within a province.

as may from time to time be defined by the Parliament of Canada shall be entitled to one member.⁽²⁵⁾

Constitution
of House of
Commons.
Ad. 1915,
5-6 Geo. V,
c. 45, s. 2.

51A. Notwithstanding anything in this Act a province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province.⁽²⁶⁾

Increase of
number of
House of
Commons.

52. The Number of Members of the House of Commons may be from time to time increased by the Parliament of Canada, provided the proportionate Representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes; Royal Assent

Appropriation and tax
Bills.

53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Recommendation of
money votes.

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any

(25) This section is new. The B.N.A. Act, 1952, by which it was enacted, was assented to on the 18th of June, 1952. (This is now c. 304 of the Revised Statutes of 1952. It replaced the B.N.A. Act, 1946, c. 63 of 10 Geo. VI of the United Kingdom.) This was the first and only time that the B.N.A. Act, 1867 was amended by the Canadian Parliament. Consequent to this Act a new Representation Act was passed by Parliament c. 48 of the Statutes of 1952, and now c. 334 of the Revised Statutes of Canada 1952. See note 21 to section 40.

For comments and explanations see further in this Part: The B.N.A. Act, 1946.

Section 51, as amended by the Statute Law Revision Act, 1893, previously read as follows:—

"51. On the Completion of each decennial Census, the Representation of the Four Provinces shall be readjusted by such Authority, in such Manner, and from such time, as the Parliament of Canada from time to time provides, subject and according to the following Rules:—

- (1) Quebec shall have the fixed number of Sixty-five Members:*
- (2) There shall be assigned to each of the other Provinces such a Number of Members as will bear the same Proportion to the Number of its Population (ascertained at such Census) as the Number Sixty-five bears to the Number of the Population of Quebec (so ascertained):*
- (3) In the Computation of the Number of Members for a Province a fractional Part not exceeding One Half the whole Number requisite for entitling the Province to a Member shall be disregarded; but a fractional Part exceeding One Half of that Number shall be equivalent to the whole Number:*
- (4) On any such Re-adjustment the Number of Members for a Province shall not be reduced unless the Proportion which the Number of the Population of the Province bore to the Number of the aggregate Population of Canada at the then last preceding Re-adjustment of the Number of Members for the Province is ascertained at the then latest Census to be diminished by One Twentieth Part or upwards:*
- (5) Such Re-adjustment shall not take effect until the Termination of the then existing Parliament."*

(26) Section 51A was added to the Act of 1867 by the B.N.A. Act of 1915 (5-6 Geo. V, c. 45, s. 2).

Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

55. Where a Bill passed by the Houses of Parliament is presented to the Governor General for the Queen's Assent, he shall declare, according to his Discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.⁽²⁷⁾

Royal Assent to Bills, etc.

56. Where the Governor General assents to a Bill in the Queen's Name, he shall by the first convenient Opportunity send an authentic Copy of the Act to one of Her Majesty's Principal Secretaries of State, and if the Queen in Council within Two Years after Receipt thereof by the Secretary of State thinks fit to disallow the Act, such Disallowance (with a Certificate of the Secretary of State of the Day on which the Act was received by him) being signified by the Governor General, by Speech or Message to each of the Houses of the Parliament or by Proclamation, shall annul the Act from and after the Day of such Signification.⁽²⁸⁾

Disallowance by order in Council of Act assented to by Governor General.

57. A Bill reserved for the Signification of the Queen's Pleasure shall not have any force unless and until within Two Years from the Day on which it was presented to the Governor General for the Queen's Assent, the Governor General signifies, by Speech or Message to each of the Houses of the Parliament or by Proclamation, that it has received the Assent of the Queen in Council.

Signification of Queen's pleasure on Bill reserved.

An Entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a Duplicate thereof duly attested shall be delivered to the proper Officer to be kept among the Records of Canada.⁽²⁹⁾

(27) The Conference on the Operation of Dominion Legislation, etc., held in London in 1929 "applying the principles laid down in the Imperial Conference Report of 1926," recommended that His Majesty's Government in the United Kingdom do not advise His Majesty to give the Governor General any instructions to reserve Bills presented to him for assent and that it would not be in accordance with constitutional practice for advice to be tendered to His Majesty against the views of the Government of the Dominion. "It is the right of the Government of each Dominion to advise the Crown in all matters relating to its own affairs." *Report of the Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation, 1929* (p. 19).

The Imperial Conference of 1930 passed a resolution approving the Report of the Conference on the Operation of Dominion Legislation and it was stated that the said Report was to be regarded as forming part of the Report of the Conference of 1930. (*See Imperial Conference 1930, Summary of Proceedings, p. 19.*)

(28) "The present constitutional position is that the power of disallowance can no longer be exercised in relation to Dominion legislation." *Report of the Conference on the Operation of Dominion Legislation, etc.* (p. 20).

(29) See Note (27) to s. 55.

V. PROVINCIAL CONSTITUTION

Executive Power

Appoint-
ment of
Lieutenant-
Governors of
Provinces.

58. For each Province there shall be an Officer, styled the Lieutenant-Governor, appointed by the Governor General in Council by Instrument under the Great Seal of Canada.⁽³⁰⁾

Tenure of
office of
Lieutenant-
Governor.

59. A Lieutenant-Governor shall hold Office during the Pleasure of the Governor General; but any Lieutenant-Governor appointed after the Commencement of the First Session of the Parliament of Canada shall not be removable within Five Years from his Appointment, except for Cause assigned, which shall be communicated to him in Writing within One Month after the Order for his Removal is made, and shall be communicated by Message to the Senate and to the House of Commons within One Week thereafter if the Parliament is then sitting, and if not then within One Week after the Commencement of the next Session of the Parliament.

Salaries of
Lieutenant-
Governors.

60. The Salaries of the Lieutenant-Governors shall be fixed and provided by the Parliament of Canada.⁽³¹⁾

Oaths, etc.,
of Lieu-
tenant-
Governor.

61. Every Lieutenant-Governor shall, before assuming the Duties of his Office, make and subscribe before the Governor General or some Person authorized by him, Oaths of Allegiance and Office similar to those taken by the Governor General.

Application
of provisions
referring to
Lieutenant-
Governor.

62. The Provisions of this Act referring to the Lieutenant-Governor extend and apply to the Lieutenant-Governor for the time being of each Province or other the Chief Executive Officer or Administrator for the time being carrying on the Government of the Province, by whatever Title he is designated.

Appoint-
ment of
Executive
Officers for
Ontario and
Quebec.

63. The Executive Council of Ontario and of Quebec shall be composed of such Persons as the Lieutenant-Governor from time to time thinks fit, and in the first instance of the following Officers, namely,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, within Quebec, the Speaker of the Legislative Council and the Solicitor General.⁽³²⁾

(30) Section 92 of this Act states that in each province the Legislature may make laws, *inter alia*, in relation to:—

“1. *The Amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant-Governor;*”

(31) Provided for by the *Salaries Act*, R.S.C. 1952, c. 243; 1953-54, c. 21; 1960, c. 45, s. 15.

(32) For Ontario, *see* R.S.O., 1960, c. 127.

For Quebec, *see* R.S.Q., 1941, c. 7; 1942, c. 55; 1943, c. 39; 1944, c. 32; 1946, cc. 11, 22; 1949, c. 16; 1950, c. 16; 1952-53, cc. 16, 38, 39, 40; 1956-57, c. 52; 1958-59, cc. 27, 28, 36.

It was not necessary to provide for the Executive Councils of Nova Scotia and New Brunswick whose constitutions were to continue as they existed.

64. The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act.⁽³³⁾

Executive Government of Nova Scotia and New Brunswick.

65. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the Advice or with the Advice and Consent of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant-Governor of Ontario and Quebec respectively, with the Advice or with the Advice and Consent of or in conjunction with the respective Executive Councils, or any Members thereof or by the Lieutenant-Governor individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be abolished or altered by the respective Legislatures of Ontario and Quebec.⁽³⁴⁾

Powers to be exercised by Lieutenant-Governor of Ontario or Quebec with advice or alone.

66. The Provisions of this Act referring to the Lieutenant-Governor in Council shall be construed as referring to the Lieutenant-Governor of the Province acting by and with the Advice of the Executive Council thereof.

Application of provisions referring to Lieutenant-Governor in Council.

67. The Governor General in Council may from time to time appoint an Administrator to execute the Office and Functions of Lieutenant-Governor during his Absence, Illness, or other Inability.

Administration in absence, etc., of Governor.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

Seats of Provincial Governments.

(33) For Nova Scotia, *see* R.S.N.S., 1954, c. 89; 1955, c. 24.

For New Brunswick, *see* R.S.N.B., 1952, c. 75; 1954, c. 39, 1955, c. 46.

(34) No provision is made for the Maritimes for the reason mentioned in Note (32).

Legislative Power⁽³⁵⁾

1. ONTARIO

Legislature
for Ontario.

69. There shall be a Legislature for Ontario consisting of the Lieutenant-Governor and of One House, styled the Legislative Assembly of Ontario.

Electoral
districts.

70. *The Legislative Assembly of Ontario shall be composed of Eighty-two Members, to be elected to represent the Eighty-two Electoral Districts set forth in the First Schedule to this Act.*⁽³⁶⁾

2. QUEBEC

Legislature
for Quebec.

71. There shall be a Legislature for Quebec consisting of the Lieutenant-Governor and of Two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

Constitu-
tion of
Legislative
Council.

72. *The Legislative Council of Quebec shall be composed of Twenty-four Members, to be appointed by the Lieutenant-Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, one being appointed to represent each of the Twenty-four Electoral Divisions of Lower Canada in this Act referred to, and each holding Office for the Term of his Life, unless the Legislature of Quebec otherwise provides under the Provisions of this Act.*⁽³⁷⁾

Qualifica-
tion of
Legislative
Councillors.

73. The Qualifications of the Legislative Councillors of Quebec shall be the same as those of the Senators for Quebec.⁽³⁸⁾

Resignation,
Disqualifi-
cation, etc.

74. The Place of a Legislative Councillor of Quebec shall become vacant in the Cases, *mutatis mutandis* in which the Place of Senator becomes vacant.

Vacancies.

75. When a Vacancy happens in the Legislative Council of Quebec by Resignation, Death, or otherwise, the Lieutenant-Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, shall appoint a fit and qualified Person to fill the Vacancy.

Questions as
to Vacancies
etc.

76. If any question arises respecting the Qualification of a Legislative Councillor of Quebec, or a Vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

(35) "The constitutions of Quebec and Ontario rest upon statute law, which is the reason why about a third of the B.N.A. Act consists of enactments specially relating to these two provinces." W. F. O'Connor, *op. cit.*, Annex I, p. 6.

(36) *Spent.* The number of members is now 98, *see* R.S.O., 1960, c. 353, s. 2.

(37) *Spent.* *See* the Legislature Act, c. 4 of the R.S.O., 1941; 1944, c. 6; 1945, cc. 12, 14; 1946, c. 11; 1947, c. 20; 1948, c. 14; 1951-52, c. 18; 1952-53, cc. 37, 38; 1953-54, c. 42; 1954-55, c. 28; 1955-56, c. 16; 1956-57, cc. 51, 61; 1957-58, c. 18; 1958-59, cc. 24, 25; 1959-60, cc. 28, 31, 32, 33, *in re* the Legislative Council (composition, Speaker and officers), s. 6 to 18.

(38) *Altered.* *See*, as regards qualification, ss. 7 and 8 of c. 4 of the R.S.Q., 1941.

77. The Lieutenant-Governor may from time to time, by Instrument under the Great Seal of Quebec, appoint a Member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his stead.⁽³⁹⁾

Speaker of
Legislative
Council.

78. Until the Legislature of Quebec otherwise provides, the Presence of at least Ten Members of the Legislative Council, including the Speaker, shall be necessary to constitute a Meeting for the Exercise of its Powers.

Quorum of
Legislative
Council.

79. Questions arising in the Legislative Council of Quebec shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the negative.

Voting in
Legislative
Council.

80. *The Legislative Assembly of Quebec shall be composed of Sixty-five Members, to be elected to represent the Sixty-five Electoral Divisions or Districts of Lower Canada in this Act referred to, subject to Alteration thereof by the Legislature of Quebec: Provided that it shall not be lawful to present to the Lieutenant-Governor of Quebec for Assent any Bill for altering the Limits of any of the Electoral Divisions or Districts mentioned in the Second Schedule to this Act, unless the Second and Third Readings of such Bill have been passed by the Legislative Assembly with the Concurrence of the Majority of the Members representing all those Electoral Divisions or Districts, and the Assent shall not be given to such Bill unless an Address has been presented by the Legislative Assembly to the Lieutenant-Governor stating that it has been so passed.*⁽⁴⁰⁾

Constitution
of Legisla-
tive As-
sembly of
Quebec.

3. ONTARIO AND QUEBEC

81. Repealed. See Note ⁽⁴¹⁾ below.

82. The Lieutenant-Governor of Ontario and of Quebec shall from time to time, in the Queen's Name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

Summoning
of Legisla-
tive As-
semblies.

83. Until the Legislature of Ontario and Quebec otherwise provides, a Person accepting or holding in Ontario or in Quebec any Office, Commission, or Employment, permanent or temporary, at the Nomination of the Lieutenant-Governor, to which an annual Salary, or any Fee, Allowance, Emolument, or profit

Restriction
on election
of holders
of offices.

(39) *Spent.* See, with respect to the Speaker of the Legislative Council, ss. 9-14 of c. 4 of the R.S.Q., 1941; 1946, c. 11.

(40) *Altered.* The Legislative Assembly of Quebec now consists of ninety-three members. See s. 19 of c. 4 of the R.S.Q., 1941 as enacted by s. 1 of c. 12 of the Statutes of Quebec, 1945, and also s. 2 of c. 42 of the Statutes of Quebec, 1953-54.

(41) Section 81 was repealed by the Statute Law Revision Act of 1893 (c. 14). It read as follows:—

“**81.** The Legislatures of Ontario and Quebec respectively shall be called together not later than Six Months after the Union.”

of any Kind or Amount whatever from the Province is attached, shall not be eligible as a Member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any Person being a Member of the Executive Council of the respective Province, or holding any of the following Offices, that is to say, the Offices of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in Quebec Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such Office.⁽⁴²⁾

Continuance
of existing
election
Laws.

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following Matters, or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the Assembly of Canada, the Qualifications or Disqualifications of Voters, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which such Elections may be continued, and the Trial of controverted Elections and the Proceedings incident thereto, the vacating of the Seats of Members and the issuing and Execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the respective Legislative Assemblies of Ontario and Quebec.⁽⁴³⁾

Provided that until the Legislature of Ontario otherwise provides, at any Election for a Member of the Legislative Assembly of Ontario for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

Duration of
Legislative
Assemblies.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for *Four* Years from the Day of the Return of the Writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner

(42) The independence of the Legislative Assemblies is further guaranteed by Acts passed in the different provinces, v.g.: c. 208 of the Rev. Stat., Ont., 1960 (*The Legislative Assembly Act*) and c. 4 of the Rev. Stat., Que., 1941 (*The Legislative Act*) amended, 1945, cc., 12, 14; 1946, c. 11; 1947, c. 20; 1948, c. 18; 1951-52, c. 18; 1952-53, cc. 37, 38; 1953-54, c. 42; 1954-55, c. 28; 1955-56, c. 16; 1956-57, cc. 51, 61; 1957-58, c. 18; 1958-59 cc. 24, 25; 1959-60, cc. 28, 31, 32, 33.

(43) See respecting The Legislative Assembly and Elections in Ontario the following statutes: R.S.O., 1960, c. 353 (Representation); R.S.O., 1960 c. 420 (Voters' Lists); R.S.O., 1960, c. 118 (Elections); R.S.O., 1960, c. 65 (Controverted Elections); R.S.O., 1960, c. 208 (Legislative Assembly). On elections in Quebec see *The Quebec Elections Act*, c. 5 of the R.S.Q., 1941 as amended by 1942, c. 13 and 1945, c. 15, also the *Quebec Controverted Elections Act*, c. 6 of the R.S.Q., 1941 as amended by 1947, c. 22; 1950, c. 49 and 1952-53, c. 31.

dissolved by the Lieutenant-Governor of the Province), and no longer.⁽⁴⁴⁾

86. There shall be a session of the Legislature of Ontario and of that of Quebec once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Legislature in each Province in one Session and its first Sitting in the next Session.

Yearly Session of Legislature.

87. The following Provisions of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the Provisions relating to the Election of a Speaker originally and on Vacancies, the Duties of the Speaker, the absence of the Speaker, the Quorum, and the Mode of voting, as if those Provisions were here re-enacted and made applicable in Terms to each such Legislative Assembly.

Speaker, Quorum, etc.

4. NOVA SCOTIA AND NEW BRUNSWICK⁽⁴⁵⁾

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act.⁽⁴⁶⁾

Constitutions of Legislatures of Nova Scotia and New Brunswick.

5.

89. Repealed. See Note ⁽⁴⁷⁾ below.

(44) "This limitation on the duration of the Legislature was carried in precise language into the Legislative Assembly Act of Ontario as it has been enacted and re-enacted from time to time until 1930, when, by c. 4, s. 2 the term was extended to five years and no longer. Then by 1942 (Ont.), c. 24 it was enacted that the then present Assembly shall continue until October 19, 1943, and that it shall not be necessary to hold any general election to choose members of the Assembly until such date without, however, affecting or abridging any prerogative of the Crown or the power of the Lieutenant-Governor to dissolve the Assembly sooner."

The King *ex rel*, Tolfree v. Clark *et al* (1943) 2 D.L.R., p. 558.

The Legislative Assembly Extension Act, 1943 (c. 12 of the Statutes of Ontario, 1943), further extended the duration of the Legislative Assembly to the 19th day of October, 1944.

Advantage was not taken, however, of this statute and the Assembly was dissolved by the Lieutenant-Governor in July, 1943.

(45) "The provinces of Nova Scotia and New Brunswick, unlike the province of Canada, were, from the beginning, English colonies by settlement, with constitutions like that of England itself, granted under Royal Prerogative." W. F. O'Connor, *op. cit.* Annex I, p. 6.

(46) The last lines of section 88 were repealed by the Statute Law Revision Act, 1893 (56 Vict., c. 14) of the Statutes of the United Kingdom of Great Britain and Ireland. The lines repealed were as follows:—
"and the House of Assembly of New Brunswick existing at the passage of this Act shall, unless sooner dissolved, continue for the Period for which it was elected".

(47) Section 89, and the heading therefor, were repealed by the Statute Law Revision Act of 1893 (c. 14). They were as follows:—

"5. ONTARIO, QUEBEC, AND NOVA SCOTIA

"89. Each of the Lieutenant-Governors of Ontario, Quebec and Nova Scotia shall cause writs to be issued for the First Election of Members of the Legislative Assembly thereof in such Form and by such Person as he thinks fit, and at such time and addressed to such Returning Officer as the Governor-General directs, and so that the First Election of a Member of the Assembly for any Electoral District or any Subdivision thereof shall be held at the same time and at the same Places as the Election for a Member to serve in the House of Commons of Canada for that Electoral District."

6. THE FOUR PROVINCES

Application
to Legisla-
tures of
provisions
respecting
money
votes, etc.

90. The following Provisions of this Act respecting the Parliament of Canada, namely,—the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signification of Pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant-Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for Canada.

VI. DISTRIBUTION OF LEGISLATIVE POWERS⁽⁴⁸⁾*Powers of the Parliament*

Legislative
Authority of
Parliament
of Canada.

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The amendment from time to time of the Constitution of Canada, except as regards matters coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the provinces, or as regards rights or privileges by this or any other Constitutional Act granted or secured to the Legislature or the Government of a province, or to any class of persons with

(48) The constitutional decisions of the Judicial Committee have been collected and reprinted in three volumes. The first two volumes entitled "The Canadian Constitution and the Judicial Committee" were edited by Dr. E. R. Cameron. The first volume covered the period 1867 to 1915, and the second, the period 1916 to 1929. The period from 1930 to 1939 is covered in a volume edited and annotated by C. P. Plaxton, K.C. and entitled "Canadian Constitutional Decisions of the Privy Council, 1930 to 1939". A work in 3 volumes (Decisions of the Judicial Committee, etc.) by Mr. R. A. Olmstead, Q.C., covers the period from 1867 to 1954. *See also* The Distribution of Legislative Power in Canada by Frederick P. Varcoe, C.M.G., Q.C. in 1954.

For applicable decisions and extracts from decisions of The Judicial Committee of the Privy Council extending from 1874 to 1938, *see also* Annex 3 of the *Report to the Honourable the Speaker of the Senate of Canada* by the Parliamentary Counsel of the Senate, relating to the enactment of the B.N.A. Act, 1867, etc., and *finally* Problems of Canadian Sovereignty by Maurice Ollivier, Q.C., LL.D., F.R.S.C. in 1945 (Canada Law Book, Toronto).

respect to schools or as regards the use of the English or the French language or as regards the requirements that there shall be a session of the Parliament of Canada at least once each year, and that no House of Commons shall continue for more than five years from the day of the return of the Writs for choosing the House: provided, however, that a House of Commons may in time of real or apprehended war, invasion or insurrection be continued by the Parliament of Canada if such continuation is not opposed by the votes of more than one-third of the members of such House.⁽⁴⁹⁾

- 1A. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
- 2A. Unemployment Insurance.⁽⁵⁰⁾
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians and Lands reserved for the Indians.

(49) Class 1 was added by the *B.N.A. (No. 2) Act, 1949*, 13 Geo. VI, c. 81 (U.K.).

(50) Section 91 was amended by inserting item 2A in 1940. This amendment was made by the *B.N.A. Act of 1940* (3-4 Geo. VI, c. 36, s. 1).

25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.⁽⁵¹⁾

Exclusive Powers of Provincial Legislatures

Subjects of
exclusive
Provincial
Legislation.

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The Amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant-Governor.
2. Direct Taxation within the Province in order to the Raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.

(51) Legislative authority has been conferred on Parliament by other Acts, v.g.: The B.N.A. Act, 1871, 34-35, Vict., c. 28 (U.K.), The B.N.A. Act, 1886, 49-50, Vict., c. 35 (U.K.) and the *Statute of Westminster, 1931*, 22 Geo. V, c. 4 (U.K.) *infra*.

8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:—
 - (a) Lines of Steam and other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province:
 - (b) Lines of Steam Ships between the Province and any British or Foreign Country:
 - (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.
11. The Incorporation of Companies with Provincial Objects.
12. The Solemnization of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
16. Generally all Matters of a merely local or private Nature in the Province.

Education

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

Legislation
respecting
Education.

- (1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:
- (2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissident Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:

- (3) Where in any Province a System of Separate or Dissident Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:
- (4) In case any such Provincial Law as from time to time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.⁽⁵²⁾

(52) Altered for Manitoba by section 22 of the *Manitoba Act*, 33 Vict., c. 3 (Canada), (confirmed by the B.N.A. Act, 1871), which reads as follows:

"22. In and for the Province, the said Legislature may exclusively make Laws in relation to Education, subject and according to the following provisions:—

(1) Nothing in any such Law shall prejudicially affect any right or privilege with respect to Denominational Schools which any class of persons have by Law or practice in the Province at the Union:

(2) An appeal shall lie to the Governor General in Council from any Act or decision of the Legislature of the Province, or of any Provincial Authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to Education:

(3) In case any such Provincial Law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial Authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial Laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section."

Altered for Alberta by s. 17 of *The Alberta Act*, 4-5 Edw. VII, c. 3 which reads as follows:

"17. Section 93 of The B.N.A. Act, 1867, shall apply to the said province, with the substitution for paragraph (1) of the said s. 93 of the following paragraph:—

(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the Northwest Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29 or any Act passed in amendment thereof, or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression "by law" is employed in paragraph (3) of the said section 93, it shall be held to mean the law as set out in the said

Uniformity of Laws in Ontario, Nova Scotia, and
New Brunswick

94. Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and of the Procedure of all or any of the Courts in those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

Legislation
for uniform-
ity of Laws
in three
Provinces.

chapters 29 and 30, and where the expression "at the Union" is employed, in the said paragraph (3) it shall be held to mean the date at which this Act comes into force."

Altered for Saskatchewan by s. 17 of *The Saskatchewan Act*, 4-5 Edw. VII, c. 42, which reads as follows:

"17. Section 93 of the B.N.A. Act, 1867, shall apply to the said province, with the substitution for paragraph (1) of the said section 93, of the following paragraph:—

(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the Northwest Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29, or any Act passed in amendment thereof or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression "by law" is employed in paragraph (3) of the said s. 93, it shall be held to mean the law as set out in the said chapters 29 and 30; and where the expression "at the Union" is employed in the said paragraph (3), it shall be held to mean the date at which this Act comes into force."

Altered by Term 17 of the Terms of Union of Newfoundland with Canada (confirmed by the B.N.A. Act, 1949, 12-13 Geo. VI, c. 22 (U.K.)), which reads as follows:

17. In lieu of section ninety-three of the B.N.A. Act, 1867, the following term shall apply in respect of the Province of Newfoundland:

In and for the Province of Newfoundland the Legislature shall have exclusive authority to make laws in relation to education, but the Legislature will not have authority to make laws prejudicially affecting any right or privilege with respect to denominational schools, common (amalgamated) schools, or denominational colleges, that any class or classes of persons have by law in Newfoundland at the date of Union, and out of public funds of the Province of Newfoundland, provided for education,

(a) all such schools shall receive their share of such funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature for all schools then being conducted under authority of the Legislature; and

(b) all such colleges shall receive their share of any grant from time to time voted for all colleges then being conducted under authority of the Legislature, such grant being distributed on a non-discriminatory basis.

Note by Elmer A. Driedger, *op. cit.*

Old Age Pensions

Old Age
Pensions.
Ad. 1951,
c. 32, s. 1.

94A. It is hereby declared that the Parliament of Canada may from time to time make laws in relation to old age pensions in Canada, but no law made by the Parliament of Canada in relation to old age pensions shall affect the operation of any law present or future of a Provincial Legislature in relation to old age pensions.⁽⁵³⁾

Agriculture and Immigration

Concurrent
powers of
Legislation
respecting
Agriculture,
etc.

95. In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from time to time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

VII. JUDICATURE

Appoint-
ment of
Judges.

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

Selection of
Judges in
Ontario, etc.

97. Until the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

Selection of
Judges in
Quebec.

98. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

Tenure
of office
of judges.
Rep. and
new, 9 Eliz.
II, c. 2.

99. (1) Subject to subsection (2) of this section, the judges of the superior courts shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

Termina-
tion at
age 75.

(2) A judge of a superior court, whether appointed before or after the coming into force of this section, shall cease to hold office upon attaining the age of seventy-five years, or upon the coming into force of this section if at that time he has already attained that age.⁽⁵⁴⁾

(53) *Added by the B.N.A. Act, 1951, 14-15 Geo. VI, c. 32 (U.K.). Infra.*

(54) Section 99 above, replacing section 99 of the original Act, was enacted by the Parliament of the United Kingdom at the request of the "Senate and House of Commons of Canada in Parliament assembled". See the Act 9 Eliz. II, c. 2, *infra*.

The section in the Act of 1867 reads as follows:

"99. The Judges of the Superior Courts shall hold office during good Behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons."

100. The Salaries, Allowances, and Pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in Cases where the Judges thereof are for the time being paid by Salary, shall be fixed and provided by the Parliament of Canada.⁽⁵⁵⁾

Salaries,
etc., of
Judges.

101. The Parliament of Canada may, notwithstanding anything in this Act, from time to time, provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada.⁽⁵⁶⁾

General
Court of
Appeal, etc.

VIII. REVENUES; DEBTS; ASSETS; TAXATION

102. All Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have Power of Appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special Powers conferred on them by this Act, shall form One Consolidated Revenue Fund, to be appropriated for the Public Service of Canada in the Manner and subject to the Charges in this Act provided.

Creation of
Consoli-
dated rev-
enue fund.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the Costs, Charges, and Expenses incident to the Collection, Management, and Receipt, thereof, and the same shall form the first Charge thereon, subject to be reviewed and audited in such Manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

Expenses of
Collection,
etc.

104. The annual interest of the Public Debts of the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union shall form the Second Charge on the Consolidated Revenue Fund of Canada.

Interest of
Provincial
public debts.

105. Unless altered by the Parliament of Canada, the salary of the Governor General shall be Ten thousand Pounds Sterling Money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the Third Charge thereon.⁽⁵⁷⁾

Salary of
Governor
General.

(55) Now provided for in the *Judges Act*, R.S.C., 1952, c. 159; 1952-53, c. 4; 1953-54, c. 58; 1955, c. 48; 1956, c. 8; 1957, c. 30; 1958, c. 33; 1959, c. 28; 1960, cc. 46, 47; 1960-61, c. 38.

(56) See the *Supreme Court Act* (*infra* and Notes thereto) R.S.C. 1952, cc. 259, 335; 1956, c. 48 and the *Exchequer Court Act*, R.S.C. 1952, c. 98; 1952-53, c. 30, s. 25; 1957, c. 24.

(57) Now covered by the *Governor General's Act*, R.S.C. 1952, c. 139.

Appropriation from time to time.

106. Subject to the several Payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the Public Service.

Transfer of stocks, etc.

107. All Stocks, Cash, Bankers' Balances, and Securities for Money belonging to each Province at the time of the Union, except as in this Act mentioned, shall be the Property of Canada, and shall be taken in Reduction of the amount of the respective Debts of the Provinces at the Union.

Transfer of property in schedule.

108. The Public Works and Property of each Province, enumerated in the Third Schedule to this Act, shall be the Property of Canada.

Property in Lands, Mines, etc.

109. All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.⁽⁵⁸⁾

Assets connected with Provincial debts.

110. All Assets connected with such Portions of the Public Debt of each Province as are assumed by that Province shall belong to that Province.

Canada to be liable for Provincial debts.

111. Canada shall be liable for the Debts and Liabilities of each Province existing at the Union.

Debts of Ontario and Quebec.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the Debt of the Province of Canada exceeds at the Union Sixty-two million five hundred thousand dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

Assets of Ontario and Quebec.

113. The Assets enumerated in the Fourth Schedule to this Act belonging at the Union to the Province of Canada shall be the property of Ontario and Quebec conjointly.

Debt of Nova Scotia.

114. Nova Scotia shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Eight million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

Debt of New Brunswick.

115. New Brunswick shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Seven Million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

(58) The four western provinces were placed in the same position as the original provinces by the B.N.A. Act, 1930, 21 Geo. V., c. 26 (U.K.), *infra*.

116. In case the Public Debts of Nova Scotia and New Brunswick do not at the Union amount to Eight million and Seven million Dollars respectively they shall respectively receive by half-yearly Payments in advance from the Government of Canada Interest at Five per Centum per Annum on the Difference between the actual Amounts of their respective Debts and such stipulated Amounts.

Payment of interest to Nova Scotia and New Brunswick.

117. The several Provinces shall retain all their respective Public Property not otherwise disposed of in this Act, subject to the Right of Canada to assume any Lands or Public Property required for Fortifications or for the Defence of the Country.

Provincial public property.

118. The following Sums shall be paid yearly by Canada to the several Provinces for the Support of their Governments and Legislatures:

Grants to Provinces.

Dollars.

OntarioEighty thousand.
QuebecSeventy thousand.
Nova ScotiaSixty thousand.
New BrunswickFifty thousand.

Two hundred and sixty thousand;

and an annual Grant in aid to each Province shall be made, equal to Eighty Cents per Head of the Population as ascertained by the Census of One thousand eight hundred and sixty-one, and in the Case of Nova Scotia and New Brunswick, by each subsequent Decennial Census until the Population of each of those two Provinces amounts to Four hundred thousand Souls, at which Rate such Grant shall thereafter remain. Such Grants shall be in full Settlement of all future Demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such Grants, as against any Province, all Sums chargeable as Interest on the Public Debt of that Province in excess of the several Amounts stipulated in this Act.⁽⁵⁹⁾

Superseded by the B.N.A. Act, 1907, c. 11, s. 1.

119. New Brunswick shall receive by half-yearly Payments in advance from Canada for the period of Ten years from the Union an additional Allowance of Sixty-three thousand Dollars per Annum; but as long as the Public Debt of that Province

Further grant to New Brunswick.

(59) Section 118 has been repealed by the *Statute Law Revision Act, 1950*, 14 Geo. VI, c. 6 (U.K.) and superseded by the B.N.A. Act of 1907 (7 Edw. VII, c. 11, c. 1). See also Notes (61) and (62).

As to subsidies and allowances to the provinces see the *Provincial Subsidies Act*, c. 192 of the Revised Statutes of Canada, 1927, and The Maritime Provinces Additional Subsidies Act, 1942 (c. 14 of the Statutes of Canada, 1942-43).

See also the *Provincial Subsidies Act*, R.S.C. 1952, c. 221, *The Maritime Provinces Additional Subsidies Act*, 1942-43, c. 14, and the Terms of Union of Newfoundland with Canada, appended to the B.N.A. Act, 1949, and also to *An Act to approve the Terms of Union of Newfoundland with Canada*, c. 1 of the Statutes of Canada, 1949, and also the *Tax Rental Agreements Act*, 1952 (c. 49) and the *Federal-Provincial Tax-Sharing Agreements Act* (1956, c. 29).

remains under Seven million Dollars, a Deduction equal to the interest of Five per Centum per Annum on such Deficiency shall be made from that Allowance of Sixty-three thousand Dollars.⁽⁶⁰⁾

Form of
payments.

120. All Payments to be made under this Act, or in discharge of Liabilities created under any Act of the Provinces of Canada, Nova Scotia, and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such Form and Manner as may from time to time be ordered by the Governor General in Council.

Canadian
manufac-
tures, etc.

121. All articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

Continu-
ance of cus-
toms and
excise laws.

122. *The Customs and Excise Laws of each Province shall, subject to the Provisions of this Act, continue in force until altered by the Parliament of Canada.*⁽⁶¹⁾

Exportation
and Import-
ation
between
two
Provinces.

123. *Where Customs Duties are, at the Union, leviable of any Goods, Wares, or Merchandises in any Two Provinces, those Goods, Wares, and Merchandises may, from and after the Union, be imported from one of those Provinces into the other of them on Proof of Payment of the Customs Duty leviable thereon in the Province of Exportation, and on Payment of such further Amount (if any) of Customs Duty as is leviable thereon in the Province of Importation.*⁽⁶²⁾

Lumber
Dues in New
Brunswick.

124. *Nothing in this Act shall affect the Right of New Brunswick to levy the Lumber Dues provided in Chapter Fifteen of Title Three of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the Amount of such Dues; but the Lumber of any of the Provinces other than New Brunswick shall not be subject to such Dues.*⁽⁶³⁾

Exemption
of Public
Lands, etc.

125. No Lands or Property belonging to Canada or any Province shall be liable to Taxation.

Provincial
Consolidated
revenue
fund.

126. Such Portions of the Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick had before the Union Power of Appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all Duties and Revenues raised by them in accordance with the special Powers conferred upon

(60) Spent.

(61) Spent. See in the Revised Statutes of Canada, 1952 the following Acts, the *Customs Act*, c. 58; the *Customs Tariff*, c. 60; the *Excise Act*, c. 99 and the *Excise Tax Act*, c. 100, all as amended.

(62) Spent.

(63) These dues were repealed in 1873 by 36 Vict., c. 16 (N.B.). And see *An Act respecting the Export Duties imposed on Lumber, etc.*, (1873) 36 Vict., c. 41 (Canada), and section 2 of the *Provincial Subsidies Act*, R.S.C. 1952, c. 221.

NOTE: by E. A. Driedger. (*Op. cit.*)

them by this Act, shall in each Province form One Consolidated Revenue Fund to be appropriated for the Public Service of the Province.

IX. MISCELLANEOUS PROVISIONS

General

127. Repealed. See Note ⁽⁶⁴⁾ below.

128. Every Member of the Senate or House of Commons of Canada shall before taking his Seat therein take and subscribe before the Governor General or some Person authorized by him, and every Member of a Legislative Council or Legislative Assembly of any Province shall before taking his Seat therein take and subscribe before the Lieutenant-Governor of the Province or some Person authorized by him, the Oath of Allegiance contained in the Fifth Schedule to this Act; and every Member of the Senate of Canada and every Member of the Legislative Council of Quebec shall also, before taking his Seat therein, take and subscribe before the Governor General or some Person authorized by him, the Declaration of Qualification contained in the same Schedule.

Oath of
Allegiance,
etc.

129. Except as otherwise provided by this Act, all Laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legislature under this Act.⁽⁶⁵⁾

Continu-
ance of ex-
isting Laws,
Courts,
Officers, etc.

(64) Section 127 was repealed by the Statute Law Revision Act of 1893 (56 Vict., c. 14). It read as follows:—

“127. If any Person being at the Passing of this Act a Member of the Legislative Council of Canada, Nova Scotia, or New Brunswick, to whom a Place in the Senate is offered, does not within Thirty Days thereafter, by Writing under his Hand addressed to the Governor General of the Province of Canada or to the Lieutenant Governor of Nova Scotia or New Brunswick (as the Case may be), accept the same, he shall be deemed to have declined the same; and any Person who, being at the passing of this Act a Member of the Legislative Council of Nova Scotia or New Brunswick, accepts a Place in the Senate shall thereby vacate his Seat in such Legislative Council.”

(65) English law was introduced into the English speaking provinces as follows: In Nova Scotia by L/P in 1749, in P.E.I. in 1769 and in N.B. in 1784. The Upper Canada Statute of 1792 introduced English civil law in Ontario as from that date. The French civil law was continued in Quebec by the Quebec Act, 1774.

The restriction against altering or repealing laws enacted by or existing under statutes of the United Kingdom was removed by the *Statute of Westminster, 1931*, 22 Geo. V, c. 4 (U.K.). *Infra*.

Transfer of
officers to
Canada.

130. *Until the Parliament of Canada otherwise provides, all Officers of the several Provinces having Duties to discharge in relation to Matters other than those coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be Officers of Canada, and shall continue to discharge the Duties of their respective Offices under the same Liabilities, Responsibilities, and Penalties as if the Union had not been made.*⁽⁶⁶⁾

Appoint-
ment of new
officers.

131. *Until the Parliament of Canada otherwise provides, the Governor General in Council may from time to time appoint such Officers as the Governor General in Council deems necessary or proper for the effectual Execution of this Act.*

Treaty obli-
gations.

132. *The Parliament and Government of Canada shall have all Powers necessary or proper for performing the Obligations of Canada or of any Province thereof, as Part of the British Empire, towards Foreign Countries arising under Treaties between the Empire and such Foreign Countries.*

Use of Eng-
lish and
French Lan-
guages.

133. *Either the English or the French Language may be used by any Person in the Debates of the House of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.*

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

Ontario and Quebec

Appoint-
ment of ex-
ecutive offi-
cers for
Ontario and
Quebec.

134. *Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant-Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following Officers, to hold Office during Pleasure, that is to say, the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the Case of Quebec the Solicitor General, and may, by Order of the Lieutenant-Governor in Council, from time to time prescribe the Duties of those Officers and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof; and may also appoint other and additional Officers to hold Office during Pleasure, and may from time to time prescribe the*

Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof.⁽⁶⁷⁾

135. Until the Legislature of Ontario or Quebec otherwise provides, all Rights, Powers, Duties, Functions, Responsibilities, or Authorities at the passing of this Act vested in or imposed on the Attorney-General, Solicitor General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any Law, Statute or Ordinance of Upper Canada, Lower Canada, or Canada, and not repugnant to this Act, shall be vested in or imposed on any Officer to be appointed by the Lieutenant-Governor for the Discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the Duties and Functions of the Office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of Canada, as well as those of the Commissioner of Public Works.

Powers,
duties, etc.,
of Execu-
tive Officers.

136. Until altered by the Lieutenant-Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same Design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their Union as the Province of Canada.

Great Seals.

137. The Words "and from thence to the End of the then next ensuing Session of the Legislature," or Words to the same Effect, used in any temporary Act of the Province of Canada not expired before the Union, shall be construed to extend and apply to the next Session of the Parliament of Canada if the subject matter of the Act is within the Powers of the same, as defined by this Act, or to the next Sessions of the Legislatures of Ontario and Quebec respectively if the Subject Matter of the Act is within the Powers of the same as defined by this Act.

Construc-
tion of tem-
porary Acts.

138. From and after the Union the Use of the Words "Upper Canada" instead of "Ontario", or "Lower Canada" instead of "Quebec," in any Deed, Writ, Process, Pleading, Document, Matter, or Thing, shall not invalidate the same.

As to Errors
in names.

139. Any Proclamation under the Great Seal of the Province of Canada issued before the Union to take effect at a time which is subsequent to the Union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and

As to issue
of Procla-
mations be-
fore Union,
to commence
after Union.

(67) For Ontario, *see the Executive Council Act*, R.S.O. 1960 c. 127.
For Quebec, *see the Executive Power Act*, R.S.Q., 1941, c. 7; 1942, c. 55; 1943, c. 39; 1944, c. 32; 1946, cc. 11, 22; 1949, c. 16; 1950, c. 16; 1952-53, cc. 16, 38, 39, 40; 1956-57, c. 52; 1958-59, cc. 27, 28, 36.

the several Matters and Things therein proclaimed shall be and continue of like Force and Effect as if the Union had not been made.

As to issue
of Procla-
mations
after Union.

140. Any Proclamation which is authorized by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the Union, may be issued by the Lieutenant-Governor of Ontario or of Quebec, as its Subject Matter requires, under the Great Seal thereof; and from and after the Issue of such Proclamation the same and the several Matters and Things therein proclaimed shall be and continue of the like Force and Effect in Ontario or Quebec as if the Union had not been made.

Penitentiary.

141. *The Penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and of Quebec.*⁽⁶⁸⁾

Arbitration
respecting
debts, etc.

142. *The Division and Adjustment of the Debts, Credits, Liabilities, Properties, and Assets of Upper Canada and Lower Canada shall be referred to the Arbitrament of Three Arbitrators, One chosen by the Government of Ontario, One by the Government of Quebec, and One by the Government of Canada; and the Selection of the Arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the Arbitrator chosen by the Government of Canada shall not be a Resident either in Ontario or in Quebec.*⁽⁶⁹⁾

Division of
records.

143. The Governor General in Council may from time to time order that such and so many of the Records, Books, and Documents of the Province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the Property of that Province; and any Copy thereof or Extract therefrom, duly certified by the Officer having charge of the Original thereof, shall be admitted as Evidence.

Constitu-
tion of
townships in
Quebec.

144. The Lieutenant-Governor of Quebec may from time to time, by Proclamation under the Great Seal of the Province, to take effect from a day to be appointed therein, constitute Townships in those Parts of the Province of Quebec in which Townships are not then already constituted, and fix the Metes and Bounds thereof.

(68) Spent. For Penitentiaries in Canada, see the *Penitentiary Act*, c. 53 of the Statutes of Canada, 1960-61.

(69) Spent. See pages (XI) and (XII) of the Public Accounts, 1902-03. (Note by E. A. Driedger *op. cit.*)

145. Repealed. See Note (70) below.

XI. ADMISSION OF OTHER COLONIES

146. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.⁽⁷¹⁾

Power to admit Newfoundland, etc., into the Union.

147. *In case of the Admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a Representation in the Senate of Canada of Four Members, and (notwithstanding anything in this Act) in case of the Admission of Newfoundland the normal Number of Senators shall be Seventy-six and their maximum Number shall be Eighty-two; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the Three Divisions into which Canada is, in relation to the Constitution of the Senate, divided by this Act, and accordingly, after the Admission of Prince*

As to Representation of Newfoundland and Prince Edward Island in Senate.

(70) Section 145 was repealed by the Statute Law Revision Act of 1893 (56 Vict., c. 14). It read as follows:—

"X. INTERCOLONIAL RAILWAY.

"145. *Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a Declaration that the Construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that Provision should be made for its immediate Construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the Duty of the Government and Parliament of Canada to provide for the Commencement within Six Months after the Union, of a Railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the Construction thereof without Intermission, and the Completion thereof with all practicable Speed.*"

(71) The power to establish additional Provinces in the Dominion, to alter the limits of the Provinces (with their consent), to legislate for any territory not included in the Province, was conferred by The B.N.A. Act, 1871 (34-35 Vict., c. 28). This Act at the same time confirmed the Acts of Parliament of Canada 32-33 Vict., c. 3 and 33 Vict., c. 33 respecting Rupert's Land and the N.W. Territories, and the Province of Manitoba, respectively.

Rupert's Land and the North-West Territories became part of Canada pursuant to the Rupert's Land Act 1868 (Imp.) and the Order in Council of Her Majesty, Queen Victoria, dated 23rd June, 1870.

All territories mentioned in this section are now part of Canada. See the notes to s. 5, *supra*.

Edward Island, whether Newfoundland is admitted or not, the Representation of Nova Scotia and New Brunswick in the Senate shall, as Vacancies occur, be reduced from Twelve to Ten Members respectively, and the Representation of each of those Provinces shall not be increased at any Time beyond Ten, except under the Provision of this Act for the Appointment of Three or Six additional Senators under the Direction of the Queen.⁽⁷²⁾

SCHEDULES

THE FIRST SCHEDULE⁽⁷³⁾

Electoral Districts of Ontario

A

EXISTING ELECTORAL DIVISIONS

COUNTIES

- | | |
|---------------|-------------------|
| 1. Prescott. | 6. Carleton. |
| 2. Glengarry. | 7. Prince Edward. |
| 3. Stormont. | 8. Halton. |
| 4. Dundas. | 9. Essex. |
| 5. Russell. | |

Manitoba was admitted as a province by the Manitoba Act assented to 12th May, 1870 (Dom.).

British Columbia was admitted as a province by Order in Council of Her Majesty, Queen Victoria, dated 16th May, 1871. *See* R.S.C. 1927, Vol. V, p. 4495.

Prince Edward Island was admitted as a province by Order in Council of Her Majesty, Queen Victoria, dated 26th June, 1873. *See* R.S.C. 1927, Vol. V, p. 4505.

Alberta was admitted as a province by "The Alberta Act" (Dom.). IV and V Edw. VII, c. 3, assented to 20th July, 1905. *See* R.S.C. 1927, Vol. V, p. 4513.

Saskatchewan was admitted as a province by "The Saskatchewan Act" (Dom.), IV and V Edw. VII, c. 42, assented to 20th July, 1905. *See* R.S.C. 1927, Vol. V, p. 4531.

All parts of Canada not within the boundaries of the various provinces are in all things under the jurisdiction of the Parliament of Canada. *See* the *North West Territories Act*, R.S.C. 1927, c. 142, Vol. III, p. 2871 and the *Yukon Act*, R.S.C. 1927, c. 215, Vol. IV, p. 4181. *See also* the *British North America Act*, 1871, c. 28, s. 2.

(72) Spent. *See* the notes to sections 21, 22, 26, 27 and 28, *supra*. The B.N.A. Act of 1886 provided for the Representation in the Parliament of Canada of Territories which for the time being form part of the Dominion of Canada, but are not included in any province (49-50 Vict., c. 35).

This Act was given retroactive effect by section 2 thereof.

The B.N.A. Act of 1915 made provision for representation of Newfoundland in the Senate in the advent of its admission into the Union (5-6 Geo. V, c. 45, subparagraph (vi) of subsection one of section one).

(73) Spent. *Representation Act*, R.S.O. 1960, c. 353.

RIDINGS OF COUNTIES

10. North Riding of Lanark.
11. South Riding of Lanark.
12. North Riding of Leeds and North Riding of Grenville.
13. South Riding of Leeds.
14. South Riding of Grenville.
15. East Riding of Northumberland.
16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan).
17. East Riding of Durham.
18. West Riding of Durham.
19. North Riding of Ontario.
20. South Riding of Ontario.
21. East Riding of York.
22. West Riding of York.
23. North Riding of York.
24. North Riding of Wentworth.
25. South Riding of Wentworth.
26. East Riding of Elgin.
27. West Riding of Elgin.
28. North Riding of Waterloo.
29. South Riding of Waterloo.
30. North Riding of Brant.
31. South Riding of Brant.
32. North Riding of Oxford.
33. South Riding of Oxford.
34. East Riding of Middlesex.

CITIES, PARTS OF CITIES, AND TOWNS

35. West Toronto.
36. East Toronto.
37. Hamilton.
38. Ottawa.
39. Kingston.
40. London.
41. Town of Brockville, with the Township of Elizabethtown thereto attached.
42. Town of Niagara, with the Township of Niagara, thereto attached.
43. Town of Cornwall, with the Township of Cornwall thereto attached.

B

NEW ELECTORAL DISTRICTS

44. The Provisional Judicial District of ALGOMA.

The County of BRUCE, divided into Two Ridings, to be called respectively the North and South Ridings:—

45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albermarle, Amable, Arran, Bruce, Elderslie, and Saugeen, and the Village of Southampton.
46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinloss, Culross, and Carrick.

The County of HURON, divided into Two Ridings, to be called respectively the North and South Ridings:—

47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett, including the Village of Clinton, and McKillop.
48. The South Riding to consist of the Town of Goderich and the Townships of Goderich, Tuckersmith, Stanley, Hay, Usborne, and Stephen.

The County of MIDDLESEX, divided into three Ridings, to be called respectively the North, West, and East Ridings:—

49. The North Riding to consist of the Townships of McGillivray and Biddulph (taken from the County of Huron), and Williams East, Williams West, Adelaide, and Lobo.
50. The West Riding to consist of the Townships of Delaware, Carradoc, Metcalfe, Mosa and Ekfrid, and the Village of Strathroy.

(The East Riding to consist of the Townships now embraced therein, and be bounded as it is at present.)

51. The County of LAMBTON to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.
52. The County of KENT to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh, and Harwich, and the Town of Chatham.
53. The County of BOTHWELL to consist of the Townships of Sombra, Dawn, and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden with the Gore thereof, Orford, and Howard (taken from the County of Kent).

The County of GREY, divided into Two Ridings, to be called respectively the South and North Ridings:—

54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton, and Melancthon.
55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, Saint-Vincent, Sydenham, Sullivan, Derby, and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of PERTH, divided into Two Ridings, to be called respectively the South and North Ridings:—

56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.
57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell and Ste. Mary's.

The County of WELLINGTON, divided into Three Ridings, to be called respectively North, South and Centre Ridings:—

58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Mount Forest.
59. The Centre Riding to consist of the Townships of Garafraxa, Erin, Eramosa, Nichol, and Pilkington, and the Villages of Fergus and Elora.
60. The South Riding to consist of the Town of Guelph, and the Townships of Guelph and Puslinch.

The County of NORFOLK, divided into Two Ridings, to be called respectively the South and North Ridings:—

61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.
62. The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.
63. The County of HALDIMAND to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Rainham, Walpole, and Dunn.
64. The County of MONCK to consist of the Townships of Canborough and Moulton, and Sherbrooke, and the Village of Dunnville (taken from the County of Haldimand), the Townships of Caister and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland).
65. The County of LINCOLN to consist of the Townships of Clinton, Grantham, Grimsby, and Louth, and the Town of St. Catharines.
66. The County of WELLAND to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold, and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold, and Welland.
67. The County of PEEL to consist of the Townships of Chinguacousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.
68. The County of CARDWELL to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe).

The County of SIMCOE, divided into Two Ridings, to be called respectively the South and North Ridings:—

69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Tossorontio, Mulmur, and the Village of Bradford.
70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

The County of VICTORIA, divided into Two Ridings, to be called respectively the South and North Ridings:—

71. The South Riding to consist of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.
72. The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville, and Morrison, Muskoka, Monck and Watt (taken from the County of Simcoe), and any other surveyed Townships lying to the North of the said North Riding.

The County of PETERBOROUGH, divided into Two Ridings, to be called respectively the West and East Ridings:—

73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland), North Monaghan, Smith, and Ennismore, and the Town of Peterborough.
74. The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee, and Snowden, and the Village of Ashburnham, and any other surveyed Townships lying to the North of the said East Riding.

The County of **HASTINGS**, divided into Three Ridings, to be called respectively the West, East, and North Ridings:—

75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.
76. The East Riding to consist of Townships of Thurlow, Tyendinaga, and Hungerford.
77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake, and the Village of Stirling, and any other surveyed Townships lying to the North of the said North Riding.
78. The County of **LENNOX**, to consist of the Townships of Richmond, Adolphustown, North Fredericksburgh, South Fredericksburgh, Ernest Town, and Amherst Island, and the Village of Napanee.
79. The County of **ADDINGTON** to consist of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough, and Bedford.
80. The County of **FRONTENAC** to consist of the Townships of Kingston, Wolfe Island, Pittsburgh and Howe Island, and Storrington.

The County of **RENFREW**, divided into Two Ridings, to be called respectively the South and North Ridings:—

81. The South Riding to consist of the Townships of McNab, Bagot, Blithfield, Brouham, Horton, Admaston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, and the Villages of Arnprior and Renfrew.
82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Haggerty, Sherwood, Burns, and Richards, and any other surveyed Townships lying Northwesterly of the said North Riding.

Every Town and incorporated Village existing at the Union, not especially mentioned in this Schedule, is to be taken as Part of the County or Riding within which it is locally situate.

THE SECOND SCHEDULE⁽⁷⁴⁾

Electoral Districts of Quebec specially fixed

Pontiac.	Missisquoi.	Compton.
Ottawa.	Brome.	Wolfe and
Argenteuil.	Shefford.	Richmond.
Huntingdon.	Stanstead.	Megantic.
	TOWN of Sherbrooke.	

(74) Spent. For representation in the Legislative Assembly of Quebec see R.S.Q., 1941, c. 3 as amended by 1942, c. 16; 1943, c. 7; 1944, cc. 6, 7, 8; 1945, cc. 12, 13; 1946, c. 10, 1949, cc. 14, 15, 1950, cc. 47, 48, 126; 1950-51, cc. 52, 53; 1953-54, cc. 35, 42; 1954-55, cc. 25, 26, 27; 1959-60, cc. 28, 30.

THE THIRD SCHEDULE

Provincial Public Works and Property to be the Property of Canada

1. Canals, with lands and water power connected therewith.
2. Public harbours.
3. Lighthouses and piers, and Sable Island.
4. Steamboats, dredges, and public vessels.
5. Rivers and lake improvements.
6. Railways and railway stocks, mortgages, and other debts due by railway companies.
7. Military roads.
8. Customhouses, post offices, and all other public buildings, except such as the Government of Canada appropriate for the use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as ordnance property.
10. Armouries, drill sheds, military clothing, and munitions of war, and lands set apart for general public purposes.

THE FOURTH SCHEDULE

Assets to be the Property of Ontario and Quebec conjointly

Upper Canada Building Fund.

Lunatic Asylums.

Normal School.

Court Houses,

in

Aylmer,

Montreal,

Kamouraska.

} Lower Canada.

Law Society, Upper Canada.

Montreal Turnpike Trust.

University Permanent Fund.

Royal Institution.

Consolidated Municipal Loan Fund, Upper Canada.

Consolidated Municipal Loan Fund, Lower Canada.

Agricultural Society, Upper Canada.

Lower Canada Legislative Grant.

Quebec Fire Loan.

Temiscouata Advance Account.

Quebec Turnpike Trust.

Education—East.

Building and Jury Fund, Lower Canada.

Municipalities Fund.

Lower Canada Superior Education Income Fund.

THE FIFTH SCHEDULE

OATH OF ALLEGIANCE

I, A.B. do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

NOTE.—*The Name of the King or Queen of the United Kingdom of Great Britain and Ireland for the Time being is to be substituted from Time to Time, with Proper Terms of Reference thereto.*

DECLARATION OF QUALIFICATION

I, A.B., do declare and testify, That I am by Law duly qualified to be appointed a Member of the Senate of Canada [*or as the Case may be*], and that I am legally or equitably seised as of Freehold for my own Use and Benefit of Lands or Tenements held in Free and Common Socage [*or seised or possessed for my own Use and Benefit of Lands or Tenements held in Franc-alieu or in Roture (as the Case may be),*] in the Province of Nova Scotia [*or as the Case may be*] of the Value of Four thousand Dollars over and above all Rents, Dues, Debts, Mortgages, Charges, and Incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a Title to or become possessed of the said Lands and Tenements or any Part thereof for the Purpose of enabling me to become a Member of the Senate of Canada [*or as the Case may be*], and that my Real and Personal Property are together worth Four thousand Dollars over and above my Debts and Liabilities.

RUPERT'S LAND ACT, 1868

31-32 VICTORIA, CHAPTER 105

(This Act was repealed by the Statute Law Revision Act, 1893, 56-57 Vict., c. 14.)

An Act for enabling Her Majesty to accept a Surrender upon Terms of the Lands, Privileges, and Rights of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and for admitting the same into the Dominion of Canada

[31st July, 1868.]

Whereas by certain Letters Patent granted by His late Majesty King Charles the Second in the Twenty-second Year of His Reign certain Persons therein named were incorporated by the Name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and certain Lands and Territories, Rights of Government, and other Rights, Privileges, Liberties, Franchises, Powers, and Authorities, were thereby granted or purported to be granted to the said Governor and Company in His Majesty's Dominions in North America:

Recital of
Charter of
Hudson's
Bay Com-
pany, 22,
c. 2.

And whereas by the British North America Act, 1867, it was (amongst other things) enacted that it should be lawful for Her Majesty, by and with the Advice of Her Majesty's most Honourable Privy Council, on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union on such Terms and Conditions as are in the Address expressed and as Her Majesty thinks fit to approve, subject to the provisions of the said Act:

And whereas for the Purpose of carrying into effect the Provisions of the said British North America Act, 1867, and of admitting Rupert's Land into the said Dominion as aforesaid upon such Terms as Her Majesty thinks fit to approve, it is expedient that the said Lands, Territories, Rights, Privileges, Liberties, Franchises, Powers, and Authorities, so far as the same have been lawfully granted to the said Company, should be surrendered to Her Majesty, Her Heirs and Successors, upon such Terms and Conditions as may be agreed upon by and between Her Majesty and the said Governor and Company as hereinafter mentioned:

Recital of
Agreement
of surrender.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:—

1. This Act may be cited as *Rupert's Land Act, 1868.*

Short title.

2. For the Purposes of this Act the Term "*Rupert's Land*" shall include the whole of the Lands and Territories held or claimed to be held by the said Governor and Company.

Definition
of "*Rupert's
Land*".

Power to
Her Majesty
to accept
Surrender of
Lands, etc.,
of the Com-
pany upon
certain
Terms.

3. *It shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty by any Instrument under Her Sign Manual and Signet to accept a Surrender of all or any of the Lands, Territories, Rights, Privileges, Liberties, Franchises, Powers, and Authorities whatsoever granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, upon such Terms and Conditions as shall be agreed upon by and between Her Majesty and the said Governor and Company; provided, however, that such Surrender shall not be accepted by Her Majesty until the Terms and Conditions upon which Rupert's Land shall be admitted into the said Dominion of Canada shall have been approved of by Her Majesty, and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada in pursuance of the One hundred and forty-sixth Section of the British North America Act, 1867; and that the said Surrender and Acceptance thereof shall be null and void unless within a Month from the Date of Such Acceptance Her Majesty does by Order in Council under the Provisions of the said last recited Act admit Rupert's Land into the said Dominion; provided further, that no Charge shall be imposed by such Terms upon the Consolidated Fund of the United Kingdom.*

Extinguish-
ment of all
Rights of the
Company.

4. *Upon the Acceptance by Her Majesty of such Surrender all Rights of Government and Proprietary Rights, and all other Privileges, Liberties, Franchises, Powers, and Authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, and which shall have been so surrendered, shall be absolutely extinguished; provided that nothing herein contained shall prevent the said Governor and Company from continuing to carry on in Rupert's Land or elsewhere Trade and Commerce.*

Power to
Her Majesty
by Order in
Council to
admit Ru-
pert's Land
into and
form Part of
the Domin-
ion of
Canada.

5. *It shall be competent to Her Majesty by any such Order or Orders in Council as aforesaid, on Address from the Houses of Parliament of Canada, to declare that Rupert's Land shall, from a Date to be therein mentioned, be admitted into and become Part of the Dominion of Canada; and thereupon it shall be lawful for the Parliament of Canada from the Date aforesaid to make, ordain, and establish within the Land and Territory so admitted as aforesaid all such Laws, Institutions, and Ordinances, and to constitute such Courts and Officers, as may be necessary for the Peace, Order, and good Government of Her Majesty's Subjects and others therein: Provided that, until otherwise enacted by the said Parliament of Canada, all the Powers, Authorities, and Jurisdiction of the several Courts of Justice now established in Rupert's Land, and of the several Officers thereof, and of all Magistrates and Justices now acting within the said Limits, shall continue in full force and effect therein.*

Jurisdiction
of present
Courts and
Officers con-
tinued.

THE BRITISH NORTH AMERICA ACT, 1871⁽¹⁾

34-35 VICTORIA, CHAPTER 28

An Act respecting the establishment of Provinces in the Dominion of Canada

[29th June, 1871.]

WHEREAS doubts have been entertained respecting the powers of the Parliament of Canada to establish Provinces in Territories admitted, or which may hereafter be admitted, into the Dominion of Canada, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said Parliament:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited for all purposes as the British North America Act, 1871. Short title.

2. The Parliament of Canada may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration Parliament of Canada may establish new Provinces and provide for the constitution, etc., thereof.

(1) As to the procedure adopted to obtain the enactment of the B.N.A. Act, 1871, this is what the late Dr. O. D. Skelton, then Under Secretary of State for External Affairs, said in the Special Committee of the House of Commons on the B.N.A. Act in 1935 (at p. 31):—

“The object of this Act was to settle doubts as to the competence of the Canadian parliament to establish new provinces out of the western territories, to give them constitutions and representation in the federal parliament.”

The procedure was that the Act was passed by the United Kingdom parliament at the request merely of the Canadian government. There was no consent of or consultation with the provinces in 1871. There was not even an address from the federal parliament—an omission defended on the ground that parliament had implied concurrence by passing in the previous session the Manitoba Act, which the United Kingdom statute was sought to validate. On a motion by Holton, the House of Commons voted by 137 to 0: “That no change in the provisions of the B.N.A. Act should be sought by the Executive Government without the previous assent of the Parliament of this Dominion.”

David Mills moved a resolution to the effect that any alteration in the principles of representation in the House of Commons without the consent of the several provinces to the original compact, would be a violation of the federal principle of the constitution, but the resolution was rejected without debate.”

Dr. Eugene Forsey of McGill University notes (Canadian Journal of Economics and Political Science, Vol. 2, 1936 at p. 596) that there is an historical error on p. 31. The B.N.A. Act of 1871 was not passed without an address from the Dominion Parliament. The bill was drafted at the request of the Dominion Cabinet, but submitted to the British Parliament only after an address from both Houses of the Dominion Parliament (*Journals of the H. of C. of Can.* 1871, pp. 291-4, 300-1; *British Parliamentary Debates*, ser. 3, vol. 206, pp. 778, 1171, 1499, 1598; vol. 207, pp. 138, 219, 305, 724).

of any such Province, and for the passing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament.⁽²⁾

Alteration of
limits of
Provinces.

3. The Parliament of Canada may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

Parliament
of Canada
may legislate
for any ter-
ritory not
included in
a Province.

4. The Parliament of Canada may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any Province.

Confirma-
tion of Acts
of Parlia-
ment of
Canada,
32-33 Vict.
(Canadian),
c. 3;
33 Vict.
(Canadian),
c. 3.

5. The following Acts passed by the said Parliament of Canada, and intitled respectively,—“An Act for the temporary government of Rupert’s Land and the North Western Territory when united with Canada”; and “An Act to amend and continue the Act thirty-two and thirty-three Victoria, chapter three, and to establish and provide for the government of the Province of Manitoba,” shall be and be deemed to have been valid and effectual for all purposes whatsoever from the date at which they respectively received the assent, in the Queen’s name, of the Governor General of the said Dominion of Canada.

Limitation
of powers of
Parliament
of Canada
to legislate
for an estab-
lished Prov-
ince.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last-mentioned Act of the said Parliament in so far as it relates to the Province of Manitoba, or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.⁽³⁾

(2) See section 146 of the B.N.A. Act, 1867 and note thereto. See also the B.N.A. Act of 1886, Manitoba, carved out of the North West Territories, was the first of the new provinces to be established after Confederation. The Canadian Act of 1870 (see Part IV), was passed in anticipation of the Order in Council printed in Part III of this volume admitting those territories. The Imperial Act of 1871 (above) confirms the Canadian Act.

(3) It has been suggested that the resolutions of the Senate and House of Commons, preceding the amendments made by the U.K. Parliament to the B.N.A. Act, 1867 should be set out in full. It appears that one such resolution should be given, as the form is always the same, except for the amendment itself which constitutes the Imperial Act, therefore only one such resolution will be found in this book, that is the one preceding the B.N.A. Act 1946, being one of the last amendments to date to our constitution.

THE PARLIAMENT OF CANADA ACT, 1875⁽¹⁾

38-39 VICTORIA, CHAPTER 38

An Act to remove certain doubts with respect to the powers of the Parliament of Canada under section eighteen of the British North America Act, 1867

[19th July, 1875.]

WHEREAS by section eighteen of the British North America Act, 1867, it is provided as follows: "The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof:"

30-31
Vict., c. 3.

And whereas doubts have arisen with regard to the power of defining by an Act of the Parliament of Canada, in pursuance of the said section, the said privileges, powers, or immunities; and it is expedient to remove such doubts:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Section eighteen of the British North America Act, 1867, is hereby repealed, without prejudice to anything done under that section, and the following section shall be substituted for the section so repealed.

Substitution of new section for section 18 of 30-31
Vict., c. 3.

The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are

(1) The procedure followed in obtaining this amendment was outlined by Dr. Skelton as follows (*op. cit.* p. 31):—

"The object of this Act was to settle doubts as to the power of parliament under section 18 of the B.N.A. Act to define its own privileges, powers, and immunities, and to validate the Oaths Bill. It was enacted to settle a question that had arisen as to the power of a parliamentary committee to require evidence on oath, and also to validate the Oaths Bill, which had been passed by the Canadian Parliament, but later disallowed. The procedure again was that this Act was passed by the United Kingdom parliament, merely at the request of the Canadian government. This procedure was defended in the Dominion parliament on the ground that parliament had already approved the object by passing the Oaths Bill which had been held *ultra vires*, and the purpose of the United Kingdom Act was to validate it. A resolution demanding parliamentary rather than executive action was introduced but withdrawn."

from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.⁽²⁾

Confirma-
tion of Act
of Parlia-
ment of Can-
ada 31-32
Vict., c. 24.

2. The Act of the Parliament of Canada passed in the thirty-first year of the reign of Her present Majesty, chapter twenty-four, intituled "An Act to provide for oaths to witnesses being administered in certain cases for the purposes of either House of Parliament," shall be deemed to be valid, and to have been valid as from the date at which the Royal Assent was given thereto by the Governor General of the Dominion of Canada.

Short title.

3. This Act may be cited as the Parliament of Canada Act, 1875.

(2) See section 18 of the B.N.A. Act, 1867, and note^(a).

THE BRITISH NORTH AMERICA ACT, 1886⁽¹⁾

49-50 VICTORIA, CHAPTER 35

An Act respecting the Representation in the Parliament of Canada of Territories which for the time being form part of the Dominion of Canada, but are not included in any Province

[25th June, 1886.]

Whereas it is expedient to empower the Parliament of Canada to provide for the representation in the Senate and House of Commons of Canada, or either of them, of any territory which for the time being forms part of the Dominion of Canada, but is not included in any province:

Rep. 61-62
Vict., c. 22
(Imperial).

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—

(NOTE: The preamble to this Act was repealed by the Statute Law Revision Act, 1898, 61-62 Victoria, c. 22.)

1. The Parliament of Canada may from time to time make provision for the representation in the Senate and House of Commons of Canada, or in either of them, of any territories which for the time being form part of the Dominion of Canada, but are not included in any province thereof.

Provision by
Parliament
of Canada
for represen-
tation of
territories.

2. Any Act passed by the Parliament of Canada before the passing of this Act for the purpose mentioned in this Act shall, if not disallowed by the Queen, be, and shall be deemed to have been, valid and effectual from the date at which it received the assent, in Her Majesty's name, of the Governor General of Canada.

Effect of
Acts of Par-
liament of
Canada.

It is hereby declared that any Act passed by the Parliament of Canada, whether before or after the passing of this Act, for the purpose mentioned in this Act or in the British North America Act, 1871, has effect, notwithstanding anything in the British North America Act, 1867, and the number of Senators

34-35
Vict., c. 28.

(1) The procedure followed in obtaining this amendment was outlined by Dr. Skelton as follows (*op. cit.* p. 31):—

"Its object was to empower parliament to provide for representation of territories in the Senate and House of Commons. The 1871 Act had been to empower the Dominion to make provinces out of the territories, and give them representation; this Act was to empower them to give territories, as such, representation in the Senate and House of Commons, as parliament saw fit. The procedure was that the Act was passed by the United Kingdom parliament in accordance with an address from the Senate and House of Commons. The provinces were not consulted, and did not ask to be consulted, though if the B.N.A. Act was a treaty, modification in the representation in parliament, changing the balance of sectional power, might have been contended to require the consent of the existing provinces."

30-31
Vict., c. 3.

or the number of Members of the House of Commons specified in the last-mentioned Act is increased by the number of Senators or of Members, as the case may be, provided by any such Act of the Parliament of Canada for the representation of any provinces or territories of Canada.⁽²⁾

Short title
and con-
struction.

3. This Act may be cited as the British North America Act, 1886.

30-31
Vict., c. 3
34-35
Vict., c. 28.

This Act and the British North America Act, 1867, and the British North America Act, 1871, shall be construed together, and may be cited together as the British North America Acts, 1867 to 1886.

(2) See sections 21-37 of the B.N.A. Act, 1867, and also the B.N.A. Act of 1871, *ante*.

THE CANADA (ONTARIO BOUNDARY) ACT, 1889

52-53 VICTORIA, CHAPTER 28

An Act to declare the Boundaries of the Province of Ontario in the Dominion of Canada

[12th August, 1889.]

WHEREAS the Senate and Commons of Canada in Parliament assembled have presented to Her Majesty the Queen the address set forth in the schedule to this Act respecting the boundaries of the Province of Ontario:

And whereas the Government of the Province of Ontario have assented to the boundaries mentioned in that address:

And whereas such boundaries, so far as the Province of Ontario adjoins the Province of Quebec are identical with those fixed by the proclamation of the Governor General issued in November, one thousand seven hundred and ninety-one, which have ever since existed:

And whereas such boundaries, so far as the Province of Ontario adjoins the Province of Manitoba, are identical with those found to be the correct boundaries by a report of the Judicial Committee of the Privy Council, which Her Majesty the Queen in Council, on the eleventh day of August, one thousand eight hundred and eighty-four, ordered to be carried into execution:

And whereas it is expedient that the boundaries of the Province of Ontario should be declared by authority of Parliament in accordance with the said address.

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Canada (Ontario Boundary) Act, 1889. Short title.

2. It is hereby declared that the westerly, northerly, and easterly boundaries of the Province of Ontario are those described in the address set forth in the schedule to this Act. Declaration
of bound-
aries of
Ontario.

BOUNDARIES OF THE PROVINCE OF ONTARIO

SCHEDULE

ADDRESS TO THE QUEEN FROM THE SENATE AND HOUSE OF COMMONS OF CANADA.

We, Your Majesty's most dutiful and loyal subjects, the Senate and Commons of Canada, in Parliament assembled, humbly approach Your Majesty with the request that Your Majesty may be graciously pleased to

cause a measure to be submitted to the Parliament of the United Kingdom, declaring and providing the following to be the westerly, northerly, and easterly boundaries of the Province of Ontario, that is to say:—

Commencing at the point where the international boundary between the United States of America and Canada strikes the western shores of Lake Superior, thence westerly along the said boundary to the north-west angle of the Lake of the Woods, thence along a line drawn due north until it strikes the middle line of the course of the river discharging the waters of the lake called Lake Seul or the Lonely Lake, whether above or below its confluence with the stream flowing from the Lake of the Woods towards Lake Winnipeg, and thence proceeding eastward from the point at which the before-mentioned line strikes the middle line of the course of the river last aforesaid, along the middle line of the course of the same river (whether called by the name of the English River or, as to the part below the confluence, by the name of the River Winnipeg) up to Lake Seul or the Lonely Lake, and thence along the middle line of Lake Seul or Lonely Lake to the head of that lake, and thence by a straight line to the nearest point of the middle line of the waters of Lake St. Joseph, and thence along that middle line until it reaches the foot or outlet of that lake, and thence along the middle line of the river by which the waters of Lake St. Joseph discharge themselves to the shore of the part of Hudson's Bay commonly known as James Bay, and thence south-easterly following upon the said shore to a point where a line drawn due north from the head of Lake Temiscamingue would strike it, and thence due south along the said line to the head of the said lake, and thence through the middle channel of the said lake into the Ottawa River, and thence descending along the middle of the main channel of the said river to the intersection by the prolongation of the western limits of the Seigneurie of Rigaud, such mid-channel being indicated on a map of the Ottawa Ship Canal Survey made by Walter Shanly, C.E., and approved by Order of the Governor General in Council, dated the twenty-first July, one thousand eight hundred and eighty-six; and thence southerly, following the said westerly boundary of the Seigneurie of Rigaud to the south-west angle of the said Seigneurie, and then southerly along the western boundary of the augmentation of the Township of Newton to the north-west angle of the Seigneurie of Longueuil, and thence south-easterly along the south-western boundary of said Seigneurie of New Longueuil to the stone boundary on the north bank of the Lake St. Francis, at the cove west of Point au Baudet, such line from the Ottawa River to Lake St. Francis being as indicated on a plan of the line of boundary between Upper and Lower Canada, made in accordance with the Act 23 Victoria, chapter 21, and approved by Order of the Governor General in Council, dated the 16th of March, 1861.⁽¹⁾

(1) See *The Ontario Boundaries Extension Act* of 1912, 2 Geo. V, c. 40, the *Act to amend The Manitoba Boundaries Extension Act 1912*, and the *Ontario Boundaries Extension Act*, 14 Geo. VI, c. 16 of the Statutes of 1950 *infra*. These are Canadian Statutes passed in consequence of the *B.N.A. Act, 1871* which declared that the Parliament of Canada may from time to time, with the consent of the legislature of any province, increase, diminish or otherwise alter the limits of such province.

THE STATUTE LAW REVISION ACT, 1893⁽¹⁾

56-57 VICTORIA, CHAPTER 14

An Act for further promoting the Revision of the Statute Law by repealing Enactments which have ceased to be in force or have Become unnecessary

[9th June, 1893.]

WHEREAS it is expedient that certain enactments, which may be regarded as spent, or have ceased to be in force otherwise than by express specific repeal by Parliament, or have, by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The enactments described in the schedule to this Act are hereby repealed, subject to the provisions of this Act and subject to the exceptions and qualifications in the schedule mentioned; and every part of a title, preamble, or recital specified after the words "in part, namely," in connexion with an Act mentioned in the said schedule may be omitted from any revised edition of the statutes published by authority after the passing of this Act, and there may be added in the said edition such brief statement of the Acts, officers, persons, and things mentioned in the title, preamble, or recital, as may in consequence of such omission appear necessary:

Enactments
in schedule
repealed.

Provided as follows:

The repeal of the words or expressions of enactment described in the said schedule shall not affect the binding force, operation, or construction of any statute, or of any part of a statute, whether as respects the past or the future;

and where any enactment not comprised in the said schedule has been repealed, confirmed, revived, or perpetuated by any enactment hereby repealed, such repeal, confirmation, revivor, or perpetuation shall not be affected by the repeal effected by this Act;

(1) "The story of the amendments is simple. Periodically the British Parliament passes a Statute Law Revision Act, the object of which is to clear the English statute law of enactments which have either ceased to be in force or have become unnecessary, but which have not been expressly repealed. The revision Act is prepared by the Statute Law Committee, set up in 1868 by Lord Cairns to superintend the publication of the revised edition of the statutes." F. R. Scott in *The Canadian Bar Review*, April 1942, p. 340.

and the repeal by this Act of any enactment or schedule shall not affect any enactment in which such enactment or schedule has been applied, incorporated, or referred to;

nor shall such repeal of any enactment affect any right to any hereditary revenues of the Crown, or affect any charges thereupon or prevent any such enactment from being put in force for the collection of any such revenues, or otherwise in relation thereto;

and this Act shall not affect the validity, invalidity, effect, or consequences of anything already done or suffered,—or any existing status or capacity,—or any right, title, obligation, or liability already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof,—or any release or discharge of or from any debt, penalty, obligation, liability, claim, or demand,—or any indemnity,—or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law or equity, or established jurisdiction, form or course of pleading, practice, or procedure, or the general or public nature of any statute, or any existing usage, franchise, liberty, custom, privilege, restriction, exemption, office, appointment, payment, allowance, emolument, or benefit, or any prospective right notwithstanding that the sum respectively may have been in any manner affirmed, recognized, or derived by, in, or from any enactment hereby repealed;

nor shall this Act revive or restore any jurisdiction, office, duty, drawback, fee, payment, franchise, liberty, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure, form of punishment, or other matter or thing not now existing or in force;

and this Act shall not extend to repeal any enactment so far as the same may be in force in any part of Her Majesty's dominions out of the United Kingdom, except where otherwise expressed in the said schedule.

Application
of repealed
enactments
in local
courts.

2. If and so far as any enactment repealed by this Act applies or may have been by Order in Council applied to the court of the county palatine of Lancaster or to any inferior court of the civil jurisdiction, such enactment shall be construed as if it were contained in a local and personal Act specially relating to such court and shall have effect accordingly.

Citation by
short titles.

3. Where any Act cites or refers to another Act otherwise than by its short title, the short title may, in any revised edition of the Statutes printed by authority, be printed in substitution for such citation or reference.

Short title.

4. This Act may be cited as the Statute Law Revision Act, 1893.

SCHEDULE⁽²⁾

Reign and Chapter	Title
	<i>(Inter alia)</i>
30-31 Vict., c. 3.	The British North America Act, 1867. In part; namely,— From “Be it therefore” to “same as follows.” Section two. Section four to “provisions” where it last occurs. Section twenty-five. Sections forty-two and forty-three. Section fifty-one, from “of the census” to “seventy-one and” and the word “subsequent.” Section eighty-one. Section eighty-eight, from “and the House” to the end of the section. Sections eighty-nine and one hundred and twenty-seven. Section one hundred and forty-five. Repealed as to all Her Majesty’s Dominions.
31-32 Vict., c. 105	Rupert’s Land Act, 1868.

(2) There are 76 pages in the Schedule to this Act, covering repealed enactments from 7 Will. 4 and 1 Vict., c. 25 (1837) to 31 and 32 Vict., c. 129 (1868). Applicable lines only are given here.

THE CANADIAN SPEAKER (APPOINTMENT OF DEPUTY) ACT, 1895

59 VICTORIA, CHAPTER 3

An Act for removing Doubts as to the Validity of an Act passed by the Parliament of the Dominion of Canada respecting the Deputy-Speaker of the Senate

[5th September, 1895.]

WHEREAS the Parliament of Canada have passed an Act intituled "An Act respecting the Speaker of the Senate," and providing for the appointment of a deputy during the illness or absence of the Speaker of the Senate, and containing a suspending clause to the effect that the Act should not come into force until Her Majesty's pleasure thereon has been signified by proclamation in the *Canada Gazette*:

And whereas doubts have arisen as to the power of the Parliament of Canada to pass that Act, and it is expedient to remove those doubts:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Confirma-
tion of
Canadian
Act with
respect to
Speaker of
Senate.

1. The Act of the Parliament of Canada passed in the session held in the fifty-seventh and fifty-eighth years of Her Majesty's reign, entitled "An Act respecting the Speaker of the Senate," shall be deemed to be valid, and to have been valid, as from the date at which the royal assent was given thereto by the Governor General of the Dominion of Canada.⁽¹⁾

Short title.

2. This Act may be cited as the Canadian Speaker (Appointment of Deputy) Act, 1895, Session 2.

(1) See the Act referred to in Part V.

BRITISH NORTH AMERICA ACT, 1907⁽¹⁾

7 EDWARD VII, CHAPTER 11

An Act to make further provision with respect to the sums to be paid by Canada to the several Provinces of the Dominion

[9th August, 1907.]

WHEREAS an address has been presented to His Majesty by the Senate and Commons of Canada in the terms set forth in the schedule to this Act;

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) The following grants shall be made yearly by Canada to every province, which at the commencement of this Act is a province of the Dominion, for its local purposes and the support of its Government and Legislature:—

Payments
to be made
by Canada
to
Provinces.

(a) A fixed grant—

where the population of the province is under one hundred and fifty thousand, of one hundred thousand dollars;

where the population of the province is one hundred and fifty thousand, but does not exceed two hundred thousand, of one hundred and fifty thousand dollars;

(1) See Note to section 118 of the B.N.A. Act, 1867.

The procedure on this amendment has been outlined by Dr. Skelton, as follows (*op. cit.* p. 32):—

“Then, in 1907, after twenty years, there came the fourth amendment. This one is of particular importance. The object was to provide an increase in and definite settlement of federal subsidies to the provinces. The procedure in this case was that the Act was passed by the United Kingdom Parliament in accordance with an address from the Senate and House of Commons based on a series of resolutions passed by a provincial conference in 1887 and re-affirmed with some changes in similar conferences in 1902 and 1907.

It has been contended that by adopting this procedure the Dominion recognized the necessity of securing an amendment to the B.N.A. Act to effect any change in the subsidy section and the necessity also of consulting the provinces before an amendment was requested. Perhaps it should rather be said that the Dominion recognized the desirability from this point of view, of preventing any further provincial demands, and sought by consultation with the provinces and by utilizing the formal method of amendment, to give some degree of permanence to the arrangement. Its efforts were in vain. The proposal made by Sir Wilfrid Laurier included the words “final and unalterable settlement,” but that was rejected in London as inappropriate in a United Kingdom statute, and revision of the terms then granted has proceeded apace, without formal amendment and without incidentally the consent of all the provinces.”

where the population of the province is two hundred thousand, but does not exceed four hundred thousand, of one hundred and eighty thousand dollars;

where the population of the province is four hundred thousand, but does not exceed eight hundred thousand, of one hundred and ninety thousand dollars;

where the population of the province is eight hundred thousand, but does not exceed one million five hundred thousand, of two hundred and twenty thousand dollars;

where the population of the province exceeds one million five hundred thousand, of two hundred and forty thousand dollars; and

- (b) Subject to the special provisions of this Act as to the provinces of British Columbia and Prince Edward Island, a grant at the rate of eighty cents per head of the population of the province up to the number of two million five hundred thousand, and at the rate of sixty cents per head of so much of the population as exceeds that number.

(2) An additional grant of one hundred thousand dollars shall be made yearly to the Province of British Columbia for a period of ten years from the commencement of this Act.

(3) The population of the province shall be ascertained from time to time in the case of the provinces of Manitoba, Saskatchewan, and Alberta respectively by the last quinquennial census or statutory estimate of population made under the Acts establishing those provinces or any other Act of the Parliament of Canada making provision for the purpose, and in the case of any other province by the last decennial census for the time being.

(4) The grants payable under this Act shall be paid half-yearly in advance to each province.

(5) The grants payable under this Act shall be substituted for the grants or subsidies (in this Act referred to as existing grants) payable for the like purposes at the commencement of this Act to the several provinces of the Dominion, under the provisions of section one hundred and eighteen of the British North America Act, 1867, or of any Order in Council establishing a province, or of any Act of the Parliament of Canada containing directions for the payment of any such grant or subsidy, and those provisions shall cease to have effect.

(6) The Government of Canada shall have the same power of deducting sums charged against a province on account of the interest on public debt in the case of the grant payable under this Act to the province as they have in the case of the existing grant.

(7) Nothing in this Act shall affect the obligation of the Government of Canada to pay to any province any grant which is payable to that province, other than the existing grant for which the grant under this Act is substituted.

(8) In the case of the provinces of British Columbia and Prince Edward Island, the amount paid on account of the grant payable per head of the population to the provinces under this Act shall not at any time be less than the amount of the corresponding grant payable at the commencement of this Act; and if it is found on any decennial census that the population of the province has decreased since the last decennial census, the amount paid on account of the grant shall not be decreased below the amount then payable, notwithstanding the decrease of the population.

2. This Act may be cited as the British North America Act, 1907, and shall take effect as from the first date of July, nineteen hundred and seven.

Short title
and inter-
pretation.

SCHEDULE

TO THE KING'S MOST EXCELLENT MAJESTY

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Senate and Commons of Canada, in Parliament assembled, humbly approach Your Majesty for the purpose of representing that it is expedient to amend the scale of payments authorized under section 118 of the Acts of the Parliament of the United Kingdom of Great Britain and Ireland, commonly called the British North America Act, 1867, or by or under any terms or conditions upon which any other provinces were admitted to the Union, to be made by Canada to the several provinces of the Dominion for the support of their Governments and Legislatures by providing that—

A. Instead of the amounts now payable, the sums hereafter payable yearly by Canada to the several provinces for the support of their Governments and Legislatures be according to population, and as follows:—

- (a) Where the population of the province is under 150,000, \$100,000;
- (b) Where the population of the province is 150,000, but does not exceed 200,000, \$150,000;
- (c) Where the population of the province is 200,000, but does not exceed 400,000, \$180,000;
- (d) Where the population of the province is 400,000, but does not exceed 800,000, \$190,000;
- (e) Where the population of the province is 800,000, but does not exceed 1,500,000, \$220,000;
- (f) Where the population of the province exceeds 1,500,000, \$240,000.

B. Instead of an annual grant per head of population now allowed, the annual payment hereafter be at the same rate of eighty cents per head, but on the population of each province, as ascertained from time to time by the last decennial census, or in the case of the provinces of Manitoba, Saskatchewan, and Alberta respectively, by the last quinquennial census or statutory estimate, until such population exceeds 2,500,000, and at the rate of sixty cents per head for so much of said population as may exceed 2,500,000.

C. An additional allowance to the extent of one hundred thousand dollars annually be paid for ten years to the province of British Columbia.

D. Nothing herein contained shall in any way supersede or affect the terms special to any particular province upon which such province became part of the Dominion of Canada, or the right of any province to the payment of any special grant heretofore made by the Parliament of Canada to any province for any special purpose in such grant expressed.

We pray that Your Majesty may be graciously pleased to cause a measure to be laid before the Imperial Parliament at its present Session repealing the provisions of section 118 of the British North America Act, 1867, aforesaid, and substituting therefor the scale of payments above set forth, which shall be a final and unalterable settlement of the amounts to be paid yearly to the several provinces of the Dominion for their local purposes, and the support of their Governments and Legislatures.

Such grants shall be made half-yearly in advance to each province, but the Government of Canada shall deduct from such grants as against any province all sums chargeable as interest on the public debt of that province in excess of the several amounts stipulated in the said Act.

All of which we humbly pray Your Majesty to take into your favourable and gracious consideration.

(Signed) R. DANDURAND,
Speaker of the Senate.

(Signed) R. F. SUTHERLAND,
Speaker of the House of Commons.

Senate and House of Commons,
Ottawa, Canada,
26th April, 1907.⁽²⁾

(2) "As early as 1869 increased subsidies were granted to Nova Scotia by Dominion statute. Edward Blake moved in the Canadian House of Commons against that procedure on the ground that it was an unauthorized assumption of power on the part of the Dominion, but the Dominion parliament declined to accept his view and the law officers of the Crown in London, when consulted, advised that the Act was one which the Dominion parliament was competent to pass under section 91. Later in the same year the Legislature of Ontario voted an address to the Queen to have it declared that parliament had not power to disturb the financial relations between the Dominion and the several provinces as established in the B.N.A. Act. Blake, admitting that the Federal parliament now possessed the power to vary those relations, in view of the interpretation that had been given by the law officers, sought vainly to prevent the power being used—but a resolution was passed by the House of Commons by 130 to 10, against any further increases in provincial grants, a resolution which proved not worth the paper it was written on. Mr. J. A. Maxwell sums up the development thus: "In the sixty odd years since 1869, there have been three general revisions scaling up the grants given to all the provinces, and more than a score of special revisions affecting every one. Despite heavy withdrawals from capital account (i.e. debt allowances) the four original provinces in 1928-1929 drew more than 3½ times as much from the federal treasury as had been promised in the B.N.A. Act." (Dr. O. D. Skelton, *op. cit.* p. 33.)

THE BRITISH NORTH AMERICA ACT, 1915⁽¹⁾

5-6 GEORGE V, CHAPTER 45

An Act to amend the British North America Act, 1867

[19th May, 1915.]

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) Notwithstanding anything in the British North America Act, 1867, or in any Act amending the same, or in any Order in Council or terms or conditions of union made or approved under the said Acts or in any Act of the Canadian Parliament—

Alteration
of Con-
stitution
of Senate.
30-31
Vict., c. 3.

- (i) The number of senators provided for under section twenty-one of the British North America Act, 1867, is increased from seventy-two to ninety-six:
- (ii) The Divisions of Canada in relation to the constitution of the Senate provided for by section twenty-two of the said Act are increased from three to four, the Fourth Division to comprise the Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta, which four Divisions shall (subject to the provisions of the said Act and of this Act) be equally represented in the Senate, as follows:—Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta:
- (iii) The number of persons whom by section twenty-six of the said Act the Governor General of Canada may,

(1) Dr. Skelton's comments in the case of this amendment are as follows (*op. cit.* p. 35):—

“Object: To increase the number of senators and alter the main senatorial divisions.

Procedure: The procedure adopted was that the Act was passed by the United Kingdom parliament following an address by the Senate and House of Commons of Canada. Prince Edward Island made representations before a House of Commons committee, which were not accepted. Other provinces were not consulted and made no representations. The suggestion was made in the House of Commons by Mr. O. Turgeon, now Senator Turgeon, that the provinces should be consulted, but it was not acted upon.”

upon the direction of His Majesty the King, add to the Senate is increased from three or six to four or eight, representing equally the four divisions of Canada:

- (iv) In case of such addition being at any time made the Governor General of Canada shall not summon any person to the Senate except upon a further like direction by His Majesty the King on the like recommendation to represent one of the four Divisions until such Division is represented by twenty-four senators and no more:
- (v) The number of senators shall not at any time exceed one hundred and four:
- (vi) The representation in the Senate to which by section one hundred and forty-seven of the British North America Act, 1867, Newfoundland would be entitled in case of its admission to the Union is increased from four to six members, and in case of the admission of Newfoundland into the Union, notwithstanding anything in the said Act or in this Act, the normal number of senators shall be one hundred and two, and their maximum number one hundred and ten:
- (vii) Nothing herein contained shall affect the powers of the Canadian Parliament under the British North America Act, 1886.⁽²⁾

49-50
Vict., c. 35.

Repealed
17-18 Geo. V,
c. 42.

(2) *Paragraphs (i) to (vi) inclusive of subsection (1) of this section shall not take effect before the termination of the now existing Canadian Parliament.*⁽³⁾

Constitution
of House of
Commons.

2. The British North America Act, 1867, is amended by adding thereto the following section immediately after section fifty-one of the said Act:—

“51A. Notwithstanding anything in this Act a province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province.”

Short title.

3. This Act may be cited as the British North America Act, 1915, and the British North America Acts, 1867 to 1886, and this Act may be cited together as the British North America Acts, 1867 to 1915.

(2) To this number of senators must be added 6 senators from Newfoundland. See the *B.N.A. Act (No. 1) 1949, infra*, and c. 1 of the Statutes of Canada, 1949 (1st session).

(3) Subsection two of section one, repealed by the Statute Law Revision Act, 1927 (c. 42). See *supra* p. 86.

THE BRITISH NORTH AMERICA ACT, 1916⁽¹⁾

6-7 GEORGE V, CHAPTER 19

An Act to amend the British North America Act, 1867 A.D. 1916.

[1st June, 1916.]

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this Present Parliament assembled, and by the authority of the same, as follows:—

1. *Notwithstanding anything in the British North America Act, 1867, or in any Act amending the same, or in any Order in Council, or terms or conditions of Union, made or approved under the said Act, or under any Act of the Canadian Parliament, the term of the Twelfth Parliament of Canada is hereby extended until the seventh day of October, nineteen hundred and seventeen.*

2. *This Act may be cited as the British North America Act, 1916, and the British North America Acts, 1867 to 1915, and this Act may be cited together as the British North America Acts, 1867 to 1916.*

This Act repealed 17-18 George V, c. 42.

Extension of duration of Twelfth Parliament of Canada. 30-31 Vict., c. 3.

Short title.

(1) Dr. Skelton comments (*op. cit.* p. 35):—
“The object of this amendment was to lengthen the term of the existing Parliament for one year. The procedure was on an address by both houses. The provinces were not consulted and, as far as I recall, they were not referred to in the debate.”
This Act was repealed by the Statute Law Revision Act, 1927 (c. 42). See next page.

THE STATUTE LAW REVISION ACT, 1927⁽¹⁾

17-18 GEORGE V, CHAPTER 42

An Act for further promoting the Revision of the Statute Law by repealing Enactments which have ceased to be in force or have become unnecessary

[22nd December, 1927.]

WHEREAS, etc.

.....

Enactments
in schedule
repealed.

1. The enactments described in Parts I and II of the Schedule to this Act are hereby repealed, subject to the provisions of this Act and subject to the exceptions and qualifications in the said schedule mentioned; and every part of a title, preamble, or recital specified after the words "in part, namely," in connexion with an Act mentioned in the said schedule may be omitted from any revised edition of the statutes published by authority after the passing of this Act, and there may be added in the said edition such brief statement of the Acts, officers, persons, and things mentioned in the title, preamble, or recital, as may in consequence of such omission appear necessary:

Provided as follows:—etc.

.....

Short title
and extent.

4. (1) This Act may be cited as the Statute Law Revision Act, 1927, etc.

.....

SCHEDULE

REPEAL

Reign and Chapter	Short Title
	(<i>Inter alia</i>)
5 and 6 Geo. 5, c. 45.	The British North America Act, 1915. In part, namely,— Section one, subsection (2).
c. 19.	The British North America Act, 1916.

(1) See note to the Statute Law Revision Act, 1893 *supra*.

Subsection (2) of s. 1 of c. 45 of the Act of 1915 simply referred to the coming into force of certain paragraphs of the said section. The Act of 1916 was for the purpose of lengthening the term of the existing Parliament for one year.

THE BRITISH NORTH AMERICA ACT, 1930

20-21 GEORGE V, CHAPTER 26

An Act to confirm and give effect to certain agreements entered into between the Government of the Dominion of Canada and the Governments of the Provinces of Manitoba, British Columbia, Alberta and Saskatchewan respectively

[10th July, 1930.]

WHEREAS the agreements set out in the Schedule to this Act were entered into between the Government of the Dominion of Canada and the Governments of the Provinces of Manitoba, British Columbia, Alberta and Saskatchewan respectively subject, however, in each case to approval by the Parliament of Canada and the Legislature of the Province to which the agreement relates and also to confirmation by the Parliament of the United Kingdom:

And whereas each of the said agreements has been duly approved by the Parliament of Canada and by the Legislature of the Province to which it relates:

And whereas, after the execution of the said agreement relating to the Province of Alberta, it was agreed between the parties concerned, subject to such approval and confirmation as aforesaid, that the said Province should, in addition to the rights accruing to it under the said agreement as originally executed, be entitled to such further rights, if any, with respect to the subject matter of the said agreement as were required to be vested in the Province in order that it might enjoy rights equal to those which might be conferred upon or reserved to the Province of Saskatchewan under any agreement upon a like subject matter thereafter approved and confirmed in the manner aforesaid, and provision in that behalf was accordingly made by the Parliament of Canada and the Legislature of the Province of Alberta when approving the said agreement:

And whereas the Senate and Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to give his consent to the submission of a measure to the Parliament of the United Kingdom for the confirmation of the said agreements:

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Confirma-
tion of
scheduled
agreements.
30-35 Vict.,
c. 3.

1. The agreements set out in the Schedule to this Act are hereby confirmed and shall have the force of law notwithstanding anything in the British North America Act, 1867, or any Act amending the same, or any Act of Parliament of Canada, or in any Order in Council or terms or conditions of union made or approved under any such Act as aforesaid.

Extension
of scheduled
agreement
relating to
Alberta.

2. The agreement relating to the Province of Alberta which is confirmed by this Act shall be construed and have effect for all purposes as if it contained a provision to the following effect, namely, that the said Province shall, in addition to the rights accruing to it under the said agreement as originally executed, be entitled to such further rights, if any, with respect to the subject matter of the said agreement as are required to be vested in the Province in order that it may enjoy rights equal to those conferred upon, or reserved to, the Province of Saskatchewan under the agreement relating to that Province which is confirmed by this Act.

Short title.

3. This Act may be cited as the British North America Act, 1930, and the British North America Acts, 1867 to 1916, and this Act may be cited together as the British North America Acts, 1867 to 1930.

SCHEDULE⁽¹⁾

(1) The Schedule to the B.N.A. Act 1930 contains memoranda of Agreements between Canada and the Western Provinces. As these Agreements are subsequently printed in Part IV, entitled Acts of Canada (Relating to Provincial Matters), it has not been judged necessary that they should be transcribed twice.

- (1) For the Memorandum of Agreement between Canada and Manitoba, and between Canada, Ontario and Manitoba, *see* The Manitoba Natural Resources Act, in Part IV, *infra*.
- (2) For the Memorandum of Agreement between Canada and Alberta, *see* The Alberta Natural Resources Act, in Part IV, *infra*.
- (3) For the Memorandum of Agreement between Canada and Saskatchewan, *see* The Saskatchewan Natural Resources Act, in Part IV, *infra*.
- (4) For the Memorandum of Agreement between Canada and British Columbia, *see* The Railway Belt and Peace River Block Act, in Part IV, *infra*.

BRITISH NORTH AMERICA ACT, 1940⁽¹⁾

3-4 GEORGE VI, CHAPTER 36

An Act to include unemployment insurance among the classes of subjects enumerated in section ninety-one of the British North America Act, 1867

[10th July, 1940.]

WHEREAS the Senate and Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth:

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Section ninety-one of the British North America Act, 1867, is amended by inserting therein, after item 2 "The regulation of trade and commerce", the following item:

Extension of exclusive legislative authority of Parliament of Canada. 30-31 Vict. c. 3.

"2A. Unemployment insurance."

2. This Act may be cited as the British North America Act, 1940, and the British North America Acts, 1867 to 1930, the British North America Act, 1907, and this Act may be cited together as the British North America Acts, 1867 to 1940.

Short title and citation. 7 Edw. 7, c. 11.

(1) The procedure in this case was that the Act was passed by the Parliament of the United Kingdom in accordance with an address from the Senate and House of Commons.

The address was moved (and the motion agreed to) in the House of Commons of the 25 of June, 1940. The provinces had been previously consulted and all of them had consented to the amendment being made.

It is interesting to note in connection with this matter that *The Unemployment and Social Insurance Act* (c. 38 of the Statutes of Canada, 1935) had been declared *ultra vires* by a majority of the Supreme Court of Canada in 1936 and by the Judicial Committee of the Privy Council on the 28th of January, 1937, thus necessitating the amendment of the B.N.A. Act.

Less than a week after the amendment had been adopted by the Parliament of the United Kingdom *The Unemployment Insurance Act, 1940* (3-4 Geo. VI, c. 44) was introduced in the House of Commons of Canada. The Bill was assented to on the 7th of August, 1940.

BRITISH NORTH AMERICA ACT, 1943⁽¹⁾

7 GEORGE VI, CHAPTER 30

An Act to provide for the readjustment of the representation of the provinces in the House of Commons of Canada consequent on the decennial census taken in the year One thousand nine hundred and forty-one

[22nd July, 1943.]

WHEREAS the Senate and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth:

(1) This Act was passed by the Parliament of the United Kingdom in accordance with an address from the Senate and from the House of Commons. It does not appear that the provinces were consulted. On the other hand, a protest was made by the Legislature of the province of Quebec against the adoption of the measure.

The reasons for the address are given in the preamble to the resolution preceding it as follows:

“That whereas provisions of the B.N.A. Act require that, on the completion of each decennial census, the representation of the provinces in the House of Commons shall be readjusted;

And whereas such readjustment involves in fact the determination of the number of members to represent each province and the number of electoral divisions within each province and the delimitation of such electoral divisions;

And whereas Canada has been at war since September 10, 1939, and hostilities may continue for an indefinite period;

And whereas the census of 1941 was taken during the progress of hostilities;

And whereas the effect of enlistment in the armed forces of Canada and of employment in the production of munitions of war has been to remove large numbers of the population from their homes to serve in and with such armed forces either in other parts of Canada or overseas or to reside temporarily in other parts of Canada;

And whereas experience has shown that such readjustment may give rise to sharp differences of opinion as to the appropriate delimitation of electoral divisions, which differences it is most desirable to avoid while Canada continues at war;

And whereas in these circumstances it does not now seem desirable that readjustment of representation on the basis of the census of 1941 should have to be made during the continuance of the hostilities in which Canada is now engaged.

A humble address be presented to His Majesty the King in the following words:—Here follows the address and the draft of the Bill which is in the exact terms of the Act above.

The measure and its purpose were fully explained by the Minister of Justice, Mr. Saint-Laurent in the House of Commons on the fifth of July, 1943.

See also Note to s. 51 of the B.N.A. Act, 1867, supra.

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Notwithstanding anything in the British North America Acts, 1867 to 1940, it shall not be necessary that the representation of the provinces in the House of Commons of Canada be readjusted, in consequence of the completion of the decennial census taken in the year one thousand nine hundred and forty-one, until the first session of the Parliament of Canada commencing after the cessation of hostilities between Canada and the German Reich, the Kingdom of Italy and the Empire of Japan.

Postpone-
ment of
redistribu-
tion of seats
in Commons.

2. This Act may be cited as the British North America Act, 1943, and the British North America Acts, 1867 to 1940, and this Act may be cited together as the British North America Acts, 1867 to 1943.

Short title
and citation.

BRITISH NORTH AMERICA ACT, 1946⁽¹⁾

10 GEORGE VI, CHAPTER 63

An Act to provide for the readjustment of representation in the House of Commons of Canada on the basis of the population of Canada

[Assented to 26th July, 1946.]

WHEREAS the Senate and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth;

(1) As in the case of the other amendments to the B.N.A. Act, the Act of the Parliament of the United Kingdom was passed pursuant to a joint resolution of the Senate and House of Commons of Canada.

This Resolution was moved in the House on the 28th of May, 1946, by Mr. St. Laurent for Mr. Mackenzie King and read as follows:

That, whereas by the B.N.A. Act, 1867, it is provided that in respect of representation in the House of Commons the province of Quebec shall have the fixed number of sixty-five members;

And whereas the said Act provides that there shall be assigned to each of the other provinces such a number of members as will bear the same proportion to the number of its population as the number sixty-five bears to the number of the population of Quebec;

And whereas the said Act provides for the readjustment of representation on the completion of each decennial census, and that on any such readjustment the number of members for a province shall not be reduced unless the proportion which the number of the population of the province bore to the number of the aggregate population of Canada at the then last preceding readjustment of the number of members for the province is ascertained at the then latest census to be diminished by one twentieth part or upwards;

And whereas the effect of the aforesaid provisions has not been satisfactory in that proportionate representation of the provinces according to population has not been maintained;

And whereas it is considered that a more equitable apportionment of members to the various provinces could be effected if readjustment were made on the basis of the population of all the provinces taken as a whole.

A humble address be presented to His Majesty The King in the following words:

We, Your Majesty's most dutiful and loyal subjects, the Members of the House of Commons of Canada in Parliament assembled, humbly approach Your Majesty, praying that You may graciously be pleased to cause a measure to be laid before the Parliament of the United Kingdom to be expressed as follows:

"An Act to provide for the readjustment of representation in the House of Commons of Canada on the basis of the population of Canada;"

Then follows the Act exactly as it appears above, starting with the words "Whereas the Senate and House of Commons of Canada . . ." etc.,

On the sixth of June Mr. Diefenbaker moved that there should be consultation with the several provinces before presenting the address to His Majesty. His motion was negatived by a vote of 108 to 42 on the 20th of June, and the main motion was agreed to on the same date on a vote of 107 yeas and 22 nays.

The resolution was subsequently moved in the Senate by Senator Copp for Senator Robertson on the 2nd of July and carried on the 5th of July on the following division: 24 yeas to 7 nays.

See also Note to s. 51 of the *B.N.A. Act, 1867, supra*.

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Section fifty-one of the British North America Act, 1867, is hereby repealed and the following substituted therefor:

New
provision as
to readjust-
ment of
representa-
tion in
Commons.
30-31
Vict., c. 3.

"51.—(1) The number of members of the House of Commons shall be two hundred and fifty-five and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:

1. Subject as hereinafter provided, there shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and fifty-four and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division.

2. If the total number of members assigned to all the provinces pursuant to rule one is less than two hundred and fifty-four, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule one commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and fifty-four.

3. Notwithstanding anything in this section, if upon completion of a computation under rules one and two, the number of members to be assigned to a province is less than the number of senators representing the said province, rules one and two shall cease to apply in respect of the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.

4. In the event that rules one and two cease to apply in respect of a province then, for the purpose of computing the number of members to be assigned to the provinces in respect of which rules one and two continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules one and two have ceased to apply and the number two hundred and fifty-four shall be reduced by the number of members assigned to such province pursuant to rule three.

5. Such readjustment shall not take effect until the termination of the then existing Parliament.

(2) The Yukon Territory as constituted by Chapter forty-one of the Statutes of Canada, 1901, together with any Part of Canada not comprised within a province which may from time to time be included therein by the Parliament of Canada for the purposes of representation in Parliament, shall be entitled to one member."

Short title
and citation.

2. This Act may be cited as the British North America Act, 1946, and the British North America Acts, 1867 to 1943, and this Act may be cited together as the British North America Acts, 1867 to 1946.

BRITISH NORTH AMERICA (No. 1) ACT, 1949

12-13 GEORGE VI, CHAPTER 22

An Act to confirm and give effect to Terms of Union agreed
between Canada and Newfoundland⁽¹⁾

[23rd March, 1949.]

WHEREAS by means of a referendum the people of Newfoundland have by a majority signified their wish to enter into confederation with Canada;

AND WHEREAS the Agreement containing Terms of Union between Canada and Newfoundland set out in the Schedule to this Act has been duly approved by the Parliament of Canada and by the Government of Newfoundland;

AND WHEREAS Canada has requested, and consented to, the enactment of an Act of the Parliament of the United Kingdom to confirm and give effect to the said Agreement, and the Senate

(1) Here again the Act of the United-Kingdom was passed following a resolution of the House of Commons and the Senate.

On Monday, February 14, 1949, Mr. St. Laurent moved:

"That whereas by a memorandum of agreement entered into on the eleventh day of December, 1948, between Canada and Newfoundland, the terms of union of Newfoundland with Canada were agreed to, subject to approval by the parliament of Canada and the government of Newfoundland;

And whereas the terms of union provide that they shall come into force immediately before the expiration of the thirty-first day of March, 1949, if His Majesty has theretofore given his assent to an Act of the parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same;

And whereas the terms of union have been approved by the parliament of Canada;

A humble address be presented to His Majesty the King in the following words:—

The Prime Minister's motion also contained the wording itself of the Act which the Imperial Parliament was asked to pass.

Mr. Drew, seconded by Mr. Graydon, moved that the motion be amended by deleting the words:

"A humble address be presented to His Majesty the King in the following words":—

and substituting therefor:

"And whereas it is desirable that the government of Canada should consult with the governments of the several provinces in respect to the said matter;

Now therefore be it resolved, that the government of Canada be required to consult at once the governments of the several provinces and that upon a satisfactory conclusion of such consultations 'a humble address be presented to His Majesty in the following words':—"

The following day Mr. LaCroix seconded by Mr. Pouliot, moved that the words "after they will have given their consent" be substituted for the words "upon a satisfactory conclusion of such consultation" in the last paragraph of the amendment.

The sub-amendment and the amendment having both been defeated the main motion was carried on the 16th of February by 140 yeas as against 74 nays.

and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for that purpose:

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Confirma-
tion of
Terms of
Union.

1. The Agreement containing Terms of Union between Canada and Newfoundland set out in the Schedule to this Act is hereby confirmed and shall have the force of law notwithstanding anything in the British North America Acts, 1867 to 1946.

Repeal of
24-25,
Geo. 5, c. 2.

2. In accordance with the preceding section the provisions of the Newfoundland Act, 1933, other than section three thereof (which relates to guarantee of certain securities of Newfoundland) shall be repealed as from the coming into force of the said Terms of Union.

Short title
and
citation.

3. This Act may be cited as the British North America Act, 1949, and the British North America Acts, 1867 to 1946, and this Act may be cited together as the British North America Acts, 1867 to 1949.

SCHEDULE (2)

(2) The Schedule to this Act, that is the B.N.A. Act, 1949, is omitted here but may be found as the Schedule to c. 1 of the Statutes of Canada 1949. *Infra* in Part V.

BRITISH NORTH AMERICA (No. 2) ACT, 1949

13 GEORGE VI, CHAPTER 81

An Act to amend The British North America Act, 1867, as respects the amendment of the Constitution of Canada⁽¹⁾

[16th December, 1949.]

WHEREAS the Senate and the House of Commons of Canada in Parliament assembled have submitted an Address to His Majesty praying that His Majesty may graciously be pleased to cause a measure to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth:

Be it therefore enacted by the King's Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

(1) The address moved by Mr. St-Laurent, on the 17th October 1949, prayed His Majesty to cause a measure to be laid before the Parliament of the United Kingdom inserting in section 1 the following:

"1. The amendment from time to time of the constitution of Canada, except as regards matters coming within the classes of subjects by this Act assigned exclusively to the legislatures of the provinces, or as regards rights or privileges by this or any other constitutional Act granted or secured to the legislature or the government of a province, or to any class of persons with respect to schools or as regards the use of the English or the French language."

To the motion that an humble address be presented to His Majesty, etc., Mr. Drew moved, seconded by Mr. Diefenbaker:

"That the said proposed resolution be amended by striking out all the words after the first word "that" and substituting therefor the following:

"That His Excellency the Governor General in Council be requested to convoke as soon as may be possible a constitutional convention of representatives of the dominion and provincial governments to devise a method of amending within Canada the constitution of Canada, and of safeguarding minority rights; so that such method may become the subject later of an humble address, when adopted, to His Majesty the King praying an amendment of the British North America Act, 1867, accordingly."

The Speaker of the House, Mr. Ross Macdonald, declared the amendment out of order from the fact that it was so different, in substance and effect, from the main motion as to require its introduction as a distinct motion after notice.

The following day, that is on the 18th October, Mr. Knowles moved, seconded by Mr. Wright:

"That the resolution be amended by inserting therein, immediately after the word "Language," in the fourth last line thereof, the following words:

"or as regards the requirement of section twenty of this Act that there shall be a session of the parliament of Canada at least once each year, or as regards the requirement of section fifty of this Act that no House of Commons shall continue for more than five years."

Amend-
ment as to
legislative
authority of
Parliament
of Canada.
30-31 Vict.,
c. 3.

1. Section ninety-one of the British North America Act, 1867 is hereby amended by renumbering Class 1 thereof as Class 1A and by inserting therein immediately before that Class the following as Class 1:

“1. The amendment from time to time of the Constitution of Canada, except as regards matters coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the provinces, or as regards rights or privileges by this or any other Constitutional Act granted or secured to the Legislature or the Government of a province, or to any class of persons with respect to schools or as regards the use of the English or the French language or as regards the requirements that there shall be a session of the Parliament of Canada at least once each year, and that no House of Commons shall continue for more than five years from the day of the return of the Writs for choosing the House; provided, however, that a House of Commons may in time of real or apprehended war, invasion or insurrection be continued by the Parliament of Canada if such continuation is not opposed by the votes of more than one-third of the members of such House.”

Short
title and
citation.

2. This Act may be cited as The British North America (No. 2) Act, 1949, and shall be included among the Acts which may be cited as The British North America Acts, 1867 to 1949.

Subsequently, Mr. Garson, the minister of Justice, moved the following sub-amendment:

“That the amendment proposed to the resolution be amended by striking out the words “requirement of section 20 of this Act” and substituting therefor the word “requirements” and by striking out the words “or as regards the requirement of section 50 of this Act” and substituting therefor the word “and”, and by adding at the end of the proposed amendment after the words “five years” the following words:

“from the day of the return of the writs for choosing the house; provided, however, that a House of Commons may in time of real or apprehended war, invasion or insurrection be continued by the parliament of Canada if such continuation is not opposed by the votes of more than one-third of the members of such house.”

On the 27th October, the House divided on the amendment of Mr. Knowles as amended and it was agreed to on the following division: Yeas, 147; Nays, 27.

A second amendment, moved by Mr. Donald M. Fleming was negatived on the following division: Yeas, 38; Nays, 137. The same day again, the main motion, as amended, was carried by 133 yeas against 38 nays.

The opportunity of this amendment was debated at length by the provincial premiers at the Federal-Provincial Conferences (which were held in 1950, the 10th, 11th and 12th of January at Ottawa, and the 25th, 26th, 27th and 28th of September at Quebec). Certain provinces objected to the right that had been granted to the Federal Government to amend its own Constitution, since the provinces had not been consulted for this amendment to the B.N.A. Act 1867. The answer of the Prime Minister was that the Federal Parliament was granted only the same right which the provinces already had and, furthermore, that this Act could be repealed when an agreement had been entered into between the federal authorities and the provinces on the subject of the manner of amending the constitution in future.

BRITISH NORTH AMERICA ACT, 1951⁽¹⁾

14-15 GEORGE VI, CHAPTER 32

An Act to amend the British North America Act, 1867

[31st May, 1951.]

WHEREAS the Senate and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a measure to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth:

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The British North America Act, 1867, is amended by adding thereto immediately after section ninety-four thereof the following heading and section:

Amendment
as to
legislation
respecting
old age
pensions
30-31
Vict., c. 3.

"Old Age Pensions"

94A. It is hereby declared that the Parliament of Canada may from time to time make laws in relation to old age pensions in Canada, but no law made by the Parliament of Canada in relation to old age pensions shall affect the operation of any law present or future of a Provincial Legislature in relation to old age pensions."

2. This Act may be cited as the British North America Act, 1951, and the British North America Acts, 1867 to 1949, and this Act may be cited together as the British North America Acts, 1867 to 1951.

Short title
and citation.

(1) The procedure followed in relation to this amendment was as follows: The Parliament of the United-Kingdom passed the Act in consequence of an address of the Senate and House of Commons.

The Address was moved and adopted in the House of Commons on the 7th of May 1951 and in the Senate on the next day.

The provinces had been consulted and not only had they agreed to the amendment but they had approved the wording of the new sections. It had been thought preferable to write a new section rather than simply insert a new item in the federal powers enumerated in section 91.

THE BRITISH NORTH AMERICA ACT, 1952

CHAPTER 15 OF THE STATUTES OF CANADA, 1952⁽¹⁾

(Chapter 304 of the Revised Statutes of Canada, 1952)

An Act to amend the British North America Acts, 1867 to 1951, with respect to the Readjustment of Representation in the House of Commons

[Assented to 18th June, 1952.]

30-31,
Vict., c. 3
(U.K.),
amended.

Readjust-
ment of
representa-
tion in
Commons.

Rules.

1. Section 51 of the *British North America Act, 1867*, as enacted by the *British North America Act, 1946*, is repealed and the following substituted therefor:

“51. (1) Subject as hereinafter provided, the number of members of the House of Commons shall be two hundred and sixty-three and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:

1. There shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and sixty-one and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division.

2. If the total number of members assigned to all the provinces pursuant to rule 1 is less than two hundred and sixty-one, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule 1 commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and sixty-one.

3. Notwithstanding anything in this section, if upon completion of a computation under rules 1 and 2, the number of members to be assigned to a province is less than the number of senators representing the said province, rules 1 and 2 shall cease to apply in respect of the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.

(1) This is the first statute passed by the Canadian Parliament to amend the B.N.A. Act, 1867. This was done pursuant to *The B.N.A. (No. 2) Act, 1949*. See Note to s. 51 of the *B.N.A. Act, 1867, supra*.

4. In the event that rules 1 and 2 cease to apply in respect of a province then, for the purpose of computing the number of members to be assigned to the provinces in respect of which rules 1 and 2 continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules 1 and 2 have ceased to apply and the number two hundred and sixty-one shall be reduced by the number of members assigned to such province pursuant to rule 3.

5. On any such readjustment the number of members for any province shall not be reduced by more than fifteen per cent below the representation to which such province was entitled under rules 1 to 4 of this subsection at the last preceding readjustment of the representation of that province, and there shall be no reduction in the representation of any province as a result of which that province would have a smaller number of members than any other province that according to the results of the then last decennial census did not have a larger population; but for the purposes of any subsequent readjustment of representation under this section any increase in the number of members of the House of Commons resulting from the application of this rule, shall not be included in the divisor mentioned in rules 1 to 4 of this subsection.

6. Such readjustment shall not take effect until the termination of the then existing Parliament.

(2) The Yukon Territory as constituted by chapter 41 of the statutes of Canada, 1901, shall be entitled to one member, and such other part of Canada not comprised within a province as may from time to time be defined by the Parliament of Canada shall be entitled to one member."

Yukon Territory and other part not comprised within a province.

2. This Act may be cited as the *British North America Act, 1952*, and the *British North America Acts, 1867 to 1951*, and this Act may be cited together as the *British North America Acts, 1867 to 1952*.

Short title and citation.

THE BRITISH NORTH AMERICA ACT, 1960

9 ELIZABETH 2, CHAPTER 2⁽¹⁾

An Act to amend the British North America Act, 1867

[Assented to 20th December, 1960.]

WHEREAS the Senate and House of Commons of Canada in Parliament assembled have submitted Addresses to Her Majesty praying that Her Majesty may graciously be pleased to cause a measure to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Amendment
as to tenure
of office of
Judges.
30 and 31,
Vict., c. 3.

1. Section ninety-nine of the British North America Act, 1867 is hereby repealed and the following substituted therefor:

Tenure of
office of
Judges.

“99. (1) Subject to subsection two of this section, the Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons.

Termination
at age 75.

(2) A Judge of a Superior Court, whether appointed before or after the coming into force of this section, shall cease to hold office upon attaining the age of seventy-five years, or upon the coming into force of this section if at that time he has already attained that age.”

Short title
and citation.

2. This Act may be cited as the British North America Act, 1960, and the British North America Acts, 1867 to 1952, and this Act may be cited together as the British North America Acts, 1867 to 1960.

Commence-
ment.

3. This Act shall come into force on the first day of March, nineteen hundred and sixty-one.

(1) This measure was passed by the Parliament of the United Kingdom pursuant to resolutions adopted by the Senate on Wednesday, 13th July, 1960 and by the House of Commons on Friday, 29th July, 1960.

See also Note to s. 99 of the *B.N.A. Act, 1867, supra*.

STATUTE OF WESTMINSTER, 1931

STATUTE OF WESTMINSTER, 1931
22 GEORGE V, CHAPTER 4

A.D. 1931.

ARRANGEMENT OF SECTIONS

Section

1. Meaning of "Dominion" in this Act.
2. Validity of laws made by Parliament of a Dominion.
3. Power of Parliament of Dominion to legislate extra-territorially.
4. Parliament of United Kingdom not to legislate for Dominion except by consent.
5. Powers of Dominion Parliaments in relation to merchant shipping.
6. Powers of Dominion Parliaments in relation to Courts of Admiralty.
7. Saving for British North America Acts and applications of the Act to Canada.
8. Saving for Constitution Acts of Australia and New Zealand.
9. Saving with respect to States of Australia.
10. Certain sections of Act not to apply to Australia, New Zealand or Newfoundland unless adopted.
11. Meaning of "Colony" in future Acts.
12. Short title.

STATUTE OF WESTMINSTER, 1931

22 GEORGE V, CHAPTER 4

An Act to give effect to certain resolutions passed by Imperial Conferences held in the years 1926 and 1930⁽¹⁾

A.D. 1931.

[11th December, 1931.]

WHEREAS the delegates to His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial Conferences holden at Westminster in the years of our Lord nineteen hundred and twenty-six and nineteen hundred and thirty did concur in making the declarations and resolutions set forth in the Reports of the said Conferences:

And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position⁽²⁾ of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne⁽³⁾ or the Royal

(1) The Statute of Westminster was passed to confirm and ratify certain declarations made by the Delegates to the Imperial Conferences of 1926 and 1930. The Dominions represented at the Conferences were Canada, Australia, New Zealand, South Africa, the Irish Free State, Newfoundland and India, although the latter is not touched by the Statute.

(2) As to this constitutional position one may quote a passage in the report of the Inter-Imperial Relations Committee of the Imperial Conference of 1926 usually called "The Balfour Declaration":

"They are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth." Imperial Conference, 1926, Summary of Proceedings, p. 12.

(3) Although the desiderata set out in the Preamble respecting the Succession to the Throne is not followed by any positive enactment in the enacting part of the Statute, pursuant to the recital in the Preamble and to the provision of section four of the Statute, after King Edward VIII had executed the instrument of abdication it was found necessary to declare the assent of the Parliament of Canada to the alteration in the law touching the Succession to the Throne and in March, 1937 "An Act respecting alteration in the law touching the Succession to the Throne" (c. 16) was passed for the purpose of consenting to the Act of the United Kingdom intituled "His Majesty's declaration of Abdication Act, 1936". See Note (8) to the Succession to the Throne Act (Canada).

Style and Titles⁽⁴⁾ shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom:

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion.⁽⁵⁾

And whereas it is necessary for the ratifying, confirming and establishing of certain of the said declarations and resolutions of the said Conferences that a law be made and enacted in due form by authority of the Parliament of the United Kingdom:

And whereas the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland have severally requested and consented to the submission of a measure to the Parliament of the United Kingdom for making such provision with regard to the matters aforesaid as is hereafter in this Act contained:⁽⁶⁾

(4) Till 1947 the Royal style and titles were "George VI, by the Grace of God of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India". (See the Royal and Parliamentary Titles Act, 1927, c. 4 of the Statutes of the U.K., 1927.) This was in accordance with the recommendation of the Imperial Conference, 1926 (Summary of Proceedings, p. 13). For Canada the Royal style and titles are now as follows: "Elizabeth the Second, by the Grace of God of the United-Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith". See *An Act respecting the Royal Styles and Titles*, c. 9 of the Statutes of Canada, 1952-53, c. 9, *infra*.

(5) The second and third paragraphs of the Preamble are declaratory of constitutional conventions. The second is not even translated into an enactment. The third is translated into law by section four of the Statute, it accepts and confirms the following proposition in the Report of the Conference of 1926:

"On the question raised with regard to the legislative competence of members of the British Commonwealth of Nations other than Great Britain, and in particular to the desirability of those members being enabled to legislate with extra-territorial effect, we think that it should similarly be placed on record that the constitutional practice is that legislation by the Parliament at Westminster applying to a Dominion would only be passed with the consent of the Dominion concerned." (Summary of Proceedings, p. 15.)

(6) The House of Commons and the Senate of Canada on the 30th of June and 8th of July, 1931, respectively, adopted an address to His Majesty in order that there may be passed a statute of the Parliament of the United Kingdom to enact paragraphs 2 and 3 of the Preamble and sections 2, 3, 4, 5, 6, 7 and 11. (See the speech of the Rt. Hon. R. B. Bennett, Prime Minister of Canada, starting at page 3191 of the House of Commons Debates, 1931, in which he said that "the Statute of Westminster is the culmination of the long, long effort that has been made since we were a colony, to become the self-governing dominion that we now are.") In the said speech he made a short historical sketch of the various steps taken, more particularly reviewing what transpired at the conferences of 1926, 1929 and 1930. See also the speeches of Messrs. Lapointe, Ralston and Bourassa which followed.

Now, therefore, be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. In this Act the expression "Dominion" means any of the following Dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland.

Meaning of
"Dominion"
in this Act.

2. (1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.

Validity of
laws made by
Parliament
of a
Dominion.
28-29
Vict., c. 63.

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule, or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion.⁽⁷⁾

3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.⁽⁸⁾

Power of
Parliament
of Dominion
to legislate
extra territoriality.

(7) Pursuant to the declarations which had been made at the Conference of 1926, the conference of experts which met in 1929 recommended the repeal of this Act of 1865 which had been passed in the first instance to extend the powers of colonial legislatures beyond the narrow limits assigned to them by judicial decisions. The Act of 1865 had declared that laws passed by a colony should not be invalid unless they were repugnant to some Act of Parliament which applied to the colony, and only to the extent of such repugnancy. (See *Nadan vs. The King*, 1926 A.C. p. 482.)

To repeal the Act of 1865 was not sufficient, for there was a danger that the repeal might be held to restore the old common law doctrine; it was therefore considered necessary to indicate that the Acts adopted by a Dominion since 1865 could not become inoperative on account of being repugnant to the law of England.

The provinces (especially Ontario and Quebec) requested and obtained at the Interprovincial Conference which sat during April, 1931, that the benefits of section 2 be extended to them and this is the reason for the enactment of subsection (2) of section 7 of the Statute.

(8) The right of extra-territoriality, which is one of the attributes of sovereignty, is the operation of laws upon the persons, the rights and the statutes existing outside of the limits of a state but continuing however to be subject to the laws of that state. It means for a nation the right to legislate for its own nationals outside of the limits of territorial waters, in such a way as to subject them to its own laws when they return to their country's jurisdiction.

Our limitations with respect to extra-territoriality previously extended notably to fisheries, taxes, navigation, aviation, marriage, criminal law, copyright, deportation and finally to the bringing into force of Acts on smuggling and illegal immigration.

Section 3 stipulates in an absolutely clear manner and without any restrictions that the Parliament of a Dominion has full power to make laws having extra-territorial operation.

This section does not apply to the legislatures of the provinces, thus avoiding the conflict of laws which might arise if each province had the power to enact laws having extra-territorial operation.

Parliament
of United
Kingdom
not to
legislate for
Dominion
except by
consent.

Powers of
Dominion
Parliaments
in relation
to merchant
shipping.
57-58
Vict., c. 60.

4. No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.⁽⁹⁾

5. Without prejudice to the generality of the foregoing provisions of this Act, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion.⁽¹⁰⁾

(9) The situation with respect to our right to legislate may be summarized as follows:

In the beginning the United Kingdom would legislate for all its colonies without any form of consultation. The second period occurred when the colonies obtained the right to legislate subject to many restrictions, certain matters being reserved and remaining within the jurisdiction of the Parliament of the United Kingdom.

During a third period the Dominions were allowed to adopt for their own territory the British Statute, as in 1911 the Copyright Act and in 1914 the British Nationality Act.

A fourth period was that of consultation when the acts of interest to the whole Empire were to be adopted only after consultation of the different parties interested. For practical purposes, so far as uniformity of laws is required this period is still in existence, but the consultation has now become voluntary; for instance our Merchant Shipping Act has been enacted in conformity with the Convention respecting the British Commonwealth Merchant Shipping Agreement which has been signed in London on the 10th of December 1931.

The United Kingdom has itself limited its own power of legislating with respect to the Dominions by the adoption of section 4 of the Statute. As may be noticed from the perusal of this section, the British Acts referred to, are those which have been passed after the coming into force of the Statute of Westminster.

The Acts passed previously and which previously applied to the Dominions remain in force until our Parliament decides to repeal them. This section follows the recommendation of the Conference of 1930.

(10) Up to the time of the passing of the Statute of Westminster, Canada's legislative autonomy in matters relating to merchant shipping was circumscribed by the provisions of the Colonial Laws Validity Act, 1865, and also by sections 735 and 736 of the Merchant Shipping Act of 1894 (British) and from the fact that the Dominion could not give to its legislation extra-territorial effect.

The Merchant Shipping Act of 1854 applied to Great Britain and to its colonies, as there were then no Dominions. When the first Dominion was created in 1867, power was given to our federal Parliament to legislate as to navigation and merchant shipping. Our legislation, however, could be valid only in so far as it was not repugnant to that of the United Kingdom. A new British statute was passed in 1894 which was a consolidation of the Act of 1854 with the amendments made in the course of the past forty years.

Therefore the British Act of 1894 with the amendments made thereto up to 1911, also our own merchant shipping legislation have governed us up to the coming into force of our own statute passed in 1934. From 1911, it had been stipulated that the amendments made to the legislation of the United Kingdom would not apply to the Dominions.

We have mentioned previously that the Colonial Laws Validity Act was an obstacle to our autonomy in matters of shipping legislation and that another difficulty came from the fact that we could not pass laws having extra-territorial operation. These difficulties have ceased to exist from the operation of sections 2 and 3 of the Statute of Westminster already mentioned, which have cured these defects.

6. Without prejudice to a generality of the foregoing provisions of this Act, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section seven of that Act as requires the approval of His Majesty in Council to any rules of Court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in any Dominion as from the commencement of this Act.⁽¹¹⁾

Powers of Dominion Parliaments in relation to Courts of Admiralty. 53-54
Vict., c. 27.

7. (1) Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930, or any order, rule or regulation made thereunder.⁽¹²⁾

A.D. 1931.
Saving for British North America Acts and application of the Act to Canada.

Section 2 states that the Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of the Act by the Parliament of a Dominion, and section 3, that the Parliament of a Dominion has full power to make laws having extra-territorial operation. The non-application of the Colonial Laws Validity Act removed the main obstacle with respect to our right to legislate on merchant shipping.

However, it was not sufficient to state that the Colonial Laws Validity Act would not apply in the future nor to declare that the Dominion Parliament could make laws having extra-territorial operation, but it was also necessary that sections 735 and 736 of the Imperial Merchant Shipping Act should cease to apply to the Dominions, and this was done by section 5 of the Statute of Westminster.

For that reason, the Dominion has exercised that right by passing a new Merchant Shipping Act in 1934.

By passing that Act, the Dominion has exercised the absolute right it has of legislating with respect to ships, wherever they may come from, when they happen to be in Canadian waters; it has exercised its right to legislate as to ships registered in Canada, whether they be in Canadian waters or elsewhere, subject in that case to local laws when the ships happen to be in non-Canadian waters or ports.

(11) It is a moot question whether this section was necessary or not. The Colonial Courts of Admiralty Act of 1890 did govern, up to the passing of the Statute of Westminster, the constitution and, to a certain extent, the functioning of our courts of admiralty and had the effect of limiting their jurisdiction. Section 4 prevented the Dominion legislatures from extending their jurisdiction or affecting their procedure without the approval of the Secretary of State.

The jurisdiction of our court of admiralty was limited to that of the High Court of Admiralty in England; on the other hand since 1890 important additions were made to the admiralty jurisdiction of the High Court which were not added to our own, that is to the jurisdiction of the Exchequer Court as a court of admiralty (chapter 29 of our statutes of 1891 had made the Exchequer Court a court of admiralty under the Colonial Courts of Admiralty Act).

The restrictions imposed upon us have now disappeared by virtue of section 6 of the statute. It will not be necessary any more that our enactments before coming into force be approved by the Sovereign in Council, and as we have seen in the note to section 2, the Dominion Parliament was given power to repeal Acts of the United Kingdom "in so far as the same is part of the law of the Dominion," which of course includes the power to repeal, as far as we are concerned, the Colonial Courts of Admiralty Act, 1890.

(12) The B.N.A. Acts, 1867 to 1930 referred to (to be found in this volume, *ante*) are the following:

- The B.N.A. Act, 1867 (being the main Act).
- The B.N.A. Act, 1871 (Establishment of Provinces).
- The B.N.A. Act, 1886 (Representation of Territories).
- The B.N.A. Act, 1915 (Alteration of constitution of Senate).
- The B.N.A. Act, 1930 (Natural Resources).

(2) The provisions of section two of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces.⁽¹³⁾

(3) The powers conferred by this Act upon the Parliament of Canada or upon the legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the legislatures of the Provinces respectively.⁽¹⁴⁾

Saving for
Constitution
Acts of
Australia
and New
Zealand.

8. Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution or the Constitution Act of the Commonwealth of Australia or the Constitution Act of the Dominion of New Zealand otherwise than in accordance with the law existing before the commencement of this Act.

Saving with
respect to
States of
Australia.

9. (1) Nothing in this Act shall be deemed to authorize the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia.

(2) Nothing in this Act shall be deemed to require the concurrence of the Parliament or Government of the Commonwealth of Australia, in any law made by the Parliament of the United Kingdom with respect to any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia, in any case where it would have been in accordance with the constitutional practice existing before the commencement of this Act that the Parliament of the United Kingdom should make that law without such concurrence.

(3) In the application of this Act to the Commonwealth of Australia the request and consent referred to in section four shall mean the request and consent of the Parliament and Government of the Commonwealth.

Certain
sections of
Act not to
apply to
Australia,
New Zealand
or New-
foundland
unless
adopted.

10. (1) None of the following sections of this Act, that is to say, sections two, three, four, five and six, shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that section is adopted by the Parliament of the Dominion, and any Act of that Parliament adopting any section of this Act may provide that the adoption shall have effect either from the commencement of this Act or from such later date as is specified in the adopting Act.

(13) See Note (9) appended to section 2 of the Statute.

(14) The areas of legislative competence of Canada and the provinces as delimited by sections 91 and 92 respectively are not altered so that no power is given here to Canada to invade provincial rights or to the provinces to affect the powers of the federal Parliament.

As to the distribution of legislative powers see the said sections 91 and 92 of the B.N.A. Act, 1867, with notes appended thereto.

(2) The Parliament of any such Dominion as aforesaid may at any time revoke the adoption of any section referred to in subsection (1) of this section.

(3) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland. A.D. 1931.

11. Notwithstanding anything in the Interpretation Act, 1889, the expression "Colony" shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any Province or State forming part of a Dominion. Meaning of "Colony" in future Acts. 52-53 Vict. c. 63.

12. This Act may be cited as the Statute of Westminster, 1931.⁽¹⁵⁾ Short title.

(15) This is not the first and only "Statute of Westminster". Under Edward the First we find 3 Edward 1. A.D. 1275 "Les premiers Estatuts de Westmuster" (this title from Lib. Scac. Westm. X fo. xxj [xxv], translated in English as "The STATUTES OF WESTMINSTER; The First". This code of 1275 dealt with Freedom of election, Reasonableness of Amerciaments, Distress, Champerty and Extortion by the King's officers, Deceits by pleaders, Excessive tolls in market towns, etc.

The Statute of Westminster the Second is the name given to the Code of 1285 (13 Edward 1. A.D. 1285) "Statuta Reg' Edwardi edita apud Westmon in Parleamento suo Pasch' anno Regni Sui T'ciodecimo:—xiiij°.

The Statute of Westminster the Third (18 Edward 1. A.D. 1289-90) is referred to as the Statute "Quia Emptores Terrarum" and has to do with the Selling and Buying of Land. In the printed copies and translations it is intituled "Statutum Westm. iij etc."

There is a fourth Statute of Westminster which contains the legislative sentence against the Dispensers passed at Westminster in the summer of 1321. See Stubbs "Constitutional History of England," Volume II, pages 368-378 (4th edition).

PART III

**IMPERIAL ORDERS IN COUNCIL
ADMITTING RUPERT'S LAND, BRITISH COLUMBIA
AND PRINCE EDWARD ISLAND, RESPECTIVELY
INTO THE UNION**

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ORDER OF HER MAJESTY IN COUNCIL
ADMITTING RUPERT'S LAND AND THE
NORTH-WESTERN TERRITORY INTO
THE UNION⁽¹⁾

At the Court at *Windsor*, the 23rd day of *June*, 1870.

PRESENT:

The QUEEN'S Most Excellent Majesty
Lord President
Lord Privy Seal
Lord Chamberlain
Mr. Gladstone

WHEREAS by the British North America Act, 1867, it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union on such terms and conditions in each case as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act. And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland:

And whereas by an Address from the Houses of the Parliament of Canada, of which Address a copy is contained in the Schedule to this Order annexed, marked A, Her Majesty was prayed, by and with the advice of Her Most Honourable Privy Council, to unite Rupert's Land and the North-Western Territory with the Dominion of Canada, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government upon the terms and conditions therein stated:

And whereas by the Rupert's Land Act, 1868, it was (amongst other things) enacted that it should be competent for the Governor and Company of Adventurers of England trading into Hudson's Bay (hereinafter called the Company) to surrender to Her Majesty, and for Her Majesty, by any Instrument under Her Sign Manual and Signet to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers, and authorities whatsoever, granted or purported to be granted by certain Letters Patent therein recited

(1) See notes to s. 146 of the B.N.A. Act, 1867, *also* notes to s. 2 of the B.N.A. Act, 1871 (in Part I), and also notes to the Manitoba Act, 1870, in Part III.

to the said Company within Rupert's Land, upon such terms and conditions as should be agreed upon by and between Her Majesty and the said Company; provided, however, that such surrender should not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land should be admitted into the said Dominion of Canada should have been approved of by Her Majesty and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada, in pursuance of the 146th Section of the British North America Act, 1867.

And it was by the same Act further enacted that it should be competent to Her Majesty, by Order or Orders in Council, on Addresses from the Houses of the Parliament of Canada, to declare that Rupert's Land should, from a date to be therein mentioned, be admitted into and become part of the Dominion of Canada;

And whereas a second Address from both the Houses of the Parliament of Canada has been received by Her Majesty praying that Her Majesty will be pleased under the provisions of the hereinbefore recited Acts, to unite Rupert's Land on the terms and conditions expressed in certain Resolutions therein referred to and approved of by Her Majesty, of which said Resolutions and Address copies are contained in the Schedule to this Order annexed, marked B, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by and on the terms and conditions contained in the hereinbefore first recited Address, and also approved of by Her Majesty:

And whereas a draft surrender has been submitted to the Governor General of Canada containing stipulations to the following effect, viz.:

1. The sum of 300,000*l.* (being the sum hereinafter mentioned) shall be paid by the Canadian Government into the Bank of England to the credit of the Company within six calendar months after acceptance of the surrender aforesaid, with interest on the said sum at the rate of 5 per cent per annum, computed from the date of such acceptance until the time of such payment.

2. The size of the blocks which the Company are to select adjoining each of their forts in the Red River limits, shall be as follows:

	Acres
Upper Fort Garry and town of Winnipeg, including the inclosed park around shop and ground at the entrance to the town	500
Lower Fort Garry (including the farm the Company now have under cultivation)	500
White Horse Plain	500

3. The deduction to be made as hereinafter mentioned from the price of the materials of the Electric Telegraph, in respect of deterioration thereof, is to be certified within three calendar months from such acceptance as aforesaid by the agents of the Company in charge of the depots where the materials are stored. And the said price is to be paid by the Canadian Government into the Bank of England to the credit of the Company within six calendar months of such acceptance, with interest at the rate of 5 per cent per annum on the amount of such price, computed from the date of such acceptance until the time of payment:

And whereas the said draft was on the fifth day of July, one thousand eight hundred and sixty-nine, approved by the said Governor General in accordance with a Report from the Committee of the Queen's Privy Council for Canada; but it was not expedient that the said stipulations, not being contained in the aforesaid second Address, should be included in the surrender by the said Company to Her Majesty of their rights aforesaid or in this Order in Council.

And whereas the said Company did by deed under the seal of the said Company, and bearing date the nineteenth day of November, one thousand eight hundred and sixty-nine, of which deed a copy is contained in the Schedule to this Order annexed, marked C, surrender to Her Majesty all the rights of government, and other rights, privileges, liberties, franchises, powers and authorities granted, or purported to be granted to the said Company by the said Letters Patent herein and hereinbefore referred to, and also all similar rights which may have been exercised or assumed by the said Company in any parts of British North America not forming part of Rupert's Land, or of Canada or of British Columbia, and all the lands and territories (except and subject as in the terms and conditions therein mentioned) granted or purported to be granted to the said Company by the said Letters Patent:

And whereas such surrender has been duly accepted by Her Majesty, by an instrument under Her Sign Manual and Signet, bearing date at Windsor the twenty-second day of June, one thousand eight hundred and seventy:

It is hereby Ordered and declared by Her Majesty, by and with the advice of the Privy Council, in pursuance and exercise of the powers vested in Her Majesty by the said Acts of Parliament, that from and after the fifteenth day of July, one thousand eight hundred and seventy, the said North-Western Territory shall be admitted into and become part of the Dominion of Canada upon the terms and conditions set forth in the first hereinbefore recited Address, and that the Parliament of Canada shall from the day aforesaid have full powers and authority to legislate for the future welfare and good government of the said Territory. And it is further ordered that, without

prejudice to any obligations arising from the aforesaid approved Report, Rupert's Land shall from and after the said date be admitted into and become part of the Dominion of Canada upon the following terms and conditions, being the terms and conditions still remaining to be performed of those embodied in the said second address of the Parliament of Canada, and approved by Her Majesty as aforesaid:

1. Canada is to pay to the Company 300,000*l*, when Rupert's Land is transferred to the Dominion of Canada.

2. The Company are to retain the posts they actually occupy in the North-Western Territory, and may, within twelve months of the surrender, select a block of land adjoining each of its posts within any part of British North America not comprised in Canada and British Columbia, in conformity, except as regards the Red River Territory, with a list made out by the Company and communicated to the Canadian Ministers, being the list in the Schedule of the aforesaid Deed of Surrender. The actual survey is to be proceeded with, with all convenient speed.

3. The size of each block is not to exceed [10] acres round Upper Fort Garry, [300] acres round Lower Fort Garry; in the rest of the Red River Territory a number of acres to be settled at once between the Governor in Council and the Company, but so that the aggregate extent of the blocks is not to exceed 50,000 acres.

4. So far as the configuration of the country admits the blocks shall front the river or road by which means of access are provided, and shall be approximately in the shape of parallelograms, of which the frontage shall not be more than half the depth.

5. The Company may, for fifty years after the surrender, claim in any township or district within the Fertile Belt, in which land is set out for settlement, grants of land not exceeding one twentieth part of the land so set out. The blocks so granted to be determined by lot, and the Company to pay a rateable share of the survey expenses, not exceeding 8 cents Canadian an acre. The Company may defer the exercise of this right of claiming the proportion of each township for not more than ten years after it is set out; but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

6. For the purpose of the last Article, the Fertile Belt is to be bounded as follows:—On the south by the United States boundary; on the west by the Rocky Mountains; on the north by the northern branch of the Saskatchewan; on the east by Lake Winnipeg, the Lake of the Woods, and the waters connecting them.

7. If any township shall be formed abutting on the north bank of the northern branch of the Saskatchewan River, the Company may take their one-twentieth of any such township, which for the purpose of this article shall not extend more than five miles inland from the river, giving to the Canadian Dominion an equal quantity of the portion of lands coming to them of townships established on the southern bank.

8. In laying out any public roads, canals, etc., through any block of land reserved to the Company, the Canadian Government may take, without compensation, such lands as is necessary for the purpose, not exceeding one twenty-fifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, or which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, they shall pay to the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

9. It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause shall be appropriated for public purposes.

10. All titles to land up to the eighth day of March, one thousand eight hundred and sixty-nine, conferred by the Company are to be confirmed.

11. The Company is to be at liberty to carry on its trade without hindrance in its corporate capacity, and no exceptional tax is to be placed on the Company's land, trade or servants, nor any import duties on goods introduced by them previous to the surrender.

12. Canada is to take over the materials of the electric telegraph at cost price—such price including transport, but not including interest for money, and subject to a deduction for ascertained deterioration.

13. The Company's claim to land under agreements of Messrs. Vankoughnet and Hopkins to be withdrawn.

14. Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government; and the Company shall be relieved of all responsibility in respect of them.

15. The Governor in Council is authorized and empowered to arrange any details that may be necessary to carry out the above terms and conditions.

And the Right Honourable Earl Granville, one of Her Majesty's principal Secretaries of State, is to give the necessary directions herein accordingly.

SCHEDULES

SCHEDULE (A)

ADDRESS to HER MAJESTY the QUEEN from the Senate and
House of Commons of the Dominion of Canada
To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the Senate and Commons of the Dominion of Canada in Parliament assembled, humbly approach your Majesty for the purpose of representing:

That it would promote the prosperity of the Canadian people, and conduce to the advantage of the whole Empire, if the Dominion of Canada, constituted under the provisions of the British North America Act, 1867, were extended westward to the shores of the Pacific Ocean.

That the colonization of the fertile lands of the Saskatchewan, the Assiniboine, and the Red River districts; the development of the mineral wealth which abounds in the region of the Northwest; and the extension of commercial intercourse through the British possessions in America from the Atlantic to the Pacific, are alike dependent on the establishment of a stable government for the maintenance of law and order in the North-Western Territories.

That the welfare of a sparse and widely scattered population of British subjects of European origin, already inhabiting these remote and unorganized territories, would be materially enhanced by the formation therein of political institutions bearing analogy, as far as circumstances will admit, to those which exist in the several Provinces of this Dominion.

That the 146th section of the British North America Act, 1867, provides for the admission of Rupert's Land and the North-Western Territory, or either of them, into union with Canada, upon the terms and conditions to be expressed in addresses from the Houses of Parliament of this Dominion to your Majesty, and which shall be approved of by your Majesty in Council.

That we do therefore most humbly pray that your Majesty will be graciously pleased, by and with the advice of your Most Honourable Privy Council, to unite Rupert's Land and the North-Western Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government; and we most humbly beg to express to your Majesty that we are willing to assume the duties and obligations of government and legislation as regards these territories.

That in the event of your Majesty's Government agreeing to transfer to Canada the jurisdiction and control over the said region, the Government and Parliament of Canada will be ready to provide that the legal rights of any corporation, company or individual within the same shall be respected, and placed under the protection of Courts of competent jurisdiction.

And furthermore that, upon the transference of the territories in question to the Canadian Government, the claims of the Indian tribes to compensation for lands required for purposes of settlement will be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.

All which we humbly pray your Majesty to take into your Majesty's Most gracious and favourable consideration.

The Senate, Tuesday, December 17th, 1867.

(Signed) JOSEPH CAUCHON, Speaker.

House of Commons, Monday, December 16th, 1867.

(Signed) JAMES COCKBURN, Speaker.

SCHEDULE (B)

1. *Resolutions*

May 28th, 1869.

Resolved,—That the Senate and Commons of the Dominion of Canada during the first session of the first Parliament of Canada, adopted an Address to Her Majesty, praying that Her Majesty would be graciously pleased, by and with the advice of Her Most Honourable Privy Council, under the provisions of the 146th section of The British North America Act, 1867; and on the terms specified in the Address, to unite Rupert's Land and the North-West Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government, and assuring Her Majesty of the willingness of the Parliament of Canada to assume the duties and obligations of government and legislation as regard those territories.

Resolved,—That the Joint Address of the Senate and Commons of Canada was duly laid at the foot of the throne, and that Her Majesty, by despatch from the Right Honourable the Secretary of State for the Colonies, to the Governor General of Canada, under date of the 23rd of April, 1868, signified Her willingness to comply with the prayer of the said Address; but She was advised that the requisite powers of government and legislation could not, consistently with the existing charter of the Hudson's Bay Company, be transferred to Canada without an Act of Parliament, which Act was subsequently passed by the Imperial Parliament, and received Her Majesty's Assent on the 31st July, 1868.

Resolved,—That by despatch dated 8th August, 1868, from the Honourable Secretary of State for the Colonies, the Governor General was informed, that in pursuance of the powers conferred by the Act for the surrender of the Hudson Bay Territories to Her Majesty, he proposed to enter into negotiations with the Company as to the terms of such surrender, whereupon under authority of an order of the Governor-General in Council of the 1st October, 1868, the Honourable Sir Georges-E. Cartier, Baronet, and the Honourable William MacDougall, C.B., were appointed a Delegation to England, to arrange the terms for the acquisition by Canada of Rupert's Land, and by another Order in Council of the same date, were authorized to arrange for the admission of the North-West Territory into union with Canada, either with or without Rupert's Land, as it might be found practicable and expedient.

Resolved,—That the Delegates proceeded on their mission to England and entered into negotiations with His Grace the Duke of Buckingham and Chandos, the Secretary of State for the Colonies, and afterwards with the Right Honourable Earl Granville, his successor in office, for the acquisition by Canada of the territorial and other rights claimed by the Hudson's Bay Company in Rupert's Land, and in any other part of British North America, not comprised in Rupert's Land, Canada, or British Columbia. That terms of agreement were conditionally assented to by the Delegates on behalf of the Dominion, and on their return to Canada were submitted with a Report dated 8th May, 1869, which was approved by His Excellency the Governor in Council, on the 14th day of the same month.

Resolved,—That the Senate will be prepared to concur in accepting the transfer of the territorial and other rights of the Hudson's Bay Company in Rupert's Land, and in any other part of British North America, not comprised in Rupert's Land, Canada or British Columbia, on the terms conditionally agreed to on behalf of the Government of Canada, by the Hon. Sir Georges-E. Cartier, Baronet, and the Hon. William MacDougall, C.B., and on behalf of the Hudson's Bay Company, by Sir Stafford H. Northcote, Governor of that Company, and approved by His Excellency in Council as aforesaid, which terms are set forth in a letter from Sir Frederic Rogers, Under-Secretary of State for the Colonies, of the 9th March, 1869, communicated to the Delegates by Direction of

Earl Granville, and in two subsequent Memorandums dated respectively 22nd and 29th March, 1869, containing a modification of such terms, and are in the words and figures following:

*"Terms, as stated in the Letter from Sir Frederic Rogers,
of March, 1869.*

"1. The Hudson's Bay Company to surrender to Her Majesty all the rights of Government, property, etc., in Rupert's Land which are specified in 31-32 Vict., chapter 105, section 4; and also all similar rights in any other part of British North America, not comprised in Rupert's Land, Canada or British Columbia.

"2. Canada is to pay to the Company 300,000*l.*, when Rupert's Land is transferred to the Dominion of Canada.

"3. The Company may, within twelve months of the surrender, select a block of land adjoining each of its stations, within the limits specified in Article 1.

"4. The size of the blocks not to exceed _____ acres in the Red River Territory, and the aggregate extent of the blocks is not to exceed 50,000 acres.

"5. So far as the configuration of the country admits, the blocks are to be in the shape of parallelograms, of which the length is not more than double the breadth.

"6. The Hudson's Bay Company may, for fifty years after the surrender, claim in any township or district within the Fertile Belt in which land is set out for settlement, select grants of land, not exceeding one-twentieth of the land so set out. The blocks so granted to be determined by lot, and the Hudson's Bay Company to pay a rateable share of the survey expenses, not exceeding _____ an acre.

"7. For the purpose of the present agreement, the Fertile Belt is to be bounded as follows:—On the south by the United States' boundary; on the west by the Rocky Mountains; on the north by the northern branch of the Saskatchewan; on the east by Lake Winnipeg, the Lake of the Woods, and the waters connecting them.

"8. All titles to land up to the 8th March, 1869, conferred by the Company, are to be confirmed.

"9. The Company is to be at liberty to carry on its trade without hindrance, in its corporate capacity and no exceptional tax is to be placed on the Company's land, trade or servants, nor any import duty on goods introduced by them previous to the surrender.

"10. Canada is to take over the materials of the electric telegraph at cost price, such price including transport but not including interest for money, and subject to a deduction for ascertained deteriorations.

"11. The Company's claim to land under agreement of Messrs. Vankoughnet and Hopkins to be withdrawn.

"12. The details of this arrangement, including the filling up the blanks in Articles 4 and 6, to be settled at once by mutual agreement."

"MEMORANDUM

"Details of Agreement between the Delegates of the Government of the Dominion, and the Directors of the Hudson's Bay Company.

"1. It is understood that, in surrendering to Her Majesty, all the rights, etc., of the Company in any part of British North America not comprised in Rupert's Land, Canada or British Columbia, the Company are to retain the posts they actually occupy in the North-West Territory.

"2. It is understood that it will be a sufficient act of selection under Article III, that the Company should, within twelve months, name the number of acres which they will require adjoining each post. The actual survey to be proceeded with, with all convenient speed.

"3. It is understood that in the Red River Settlement, the size of the blocks to be retained round Upper Fort Garry shall not exceed (10) acres; and that round Lower Fort Garry shall not exceed (300) acres.

"4. It is understood that a list of the stations round which the Company will require blocks of land, with the size of the blocks they will require, shall be made out forthwith, and communicated to the Canadian Ministers.

"5. It is understood that Article V, shall be construed to mean that the blocks shall front the river or road, by which means of access are provided, and shall be approximately in the form of parallelograms, of which the frontage shall not be more than half the depth.

"6. It is understood that the Company may defer the exercise of their right of claiming their proportion of each township for not more than ten years after it is set out; but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

"7. It is understood that the Blank in Article 6 shall be filled up with 8 cents (Canadian).

"8. It is understood that any claim of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government, in communication with the Imperial Government, and that the Company shall be relieved of all responsibility in respect of them.

(Signed)

"STAFFORD H. NORTHCOTE

"G.-E. CARTIER

"W. MACDOUGALL

"March 22, 1869."

*"Memorandum of a further Agreement between Sir Geo.-E.
Cartier and Sir Stafford Northcote.*

"Inasmuch as the northern branch of the Saskatchewan River is the northern boundary of the Fertile Belt, and therefore any land on the northern bank is not within the territory of which the Company are to have one-twentieth part, it is understood that, in forming the townships abutting on the northern bank, the Company shall be at liberty to take their one-twentieth of any such townships, giving up to the Canadian Dominion an equal quantity of the portion of lands coming to them of townships established on the southern bank.

"It is understood that the townships on the northern bank shall not for the above purpose extend more than five miles inland from the river.

"It is understood that, in laying out any public roads, canals, etc., through any block of land reserved to the Company, the Canadian Government may take, without compensation, such land as is necessary for the purpose, not exceeding one-twentyfifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, or which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, they shall pay the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

"It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause shall be appropriated for public purposes.

(Signed)

"GEO.-E. CARTIER

"STAFFORD NORTHCOTE

"London, March 29, 1869."

Resolved,—That this House learns with satisfaction, by letter from the Under-Secretary of State for the Colonies, of 9th March last, that, in fulfilment of the expectations held out in Mr. Cardwell's despatch of 17th June, 1865, Her Majesty's Government will be prepared to propose to Parliament that the Imperial guarantee be given to a loan of 300,000*l.*, the amount which is proposed to be paid over by Canada on the transfer of the Company's rights.

Resolved,—That the Senate will be ready to concur with the House of Commons in an Address to Her Majesty, that she will be graciously pleased, by and with the advice of Her Most Honourable Privy Council, under the 146th clause of The British North America Act, 1867, and the provisions of the Imperial Act, 31-32 Vict., chapter 105, to unite Rupert's Land on the terms and conditions expressed in the foregoing Resolutions, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by, and on the terms and conditions contained in the joint Address of the Senate and the House of Commons of Canada, adopted during the first session of the first Parliament of Canada, and hereinbefore referred to.

Resolved,—That upon the transference of the territories in question to the Canadian Government, it will be the duty of the Government to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer.

Resolved,—That the Governor in Council be authorized and empowered to arrange any details, that may be necessary to carry out the terms and conditions of the above agreement.

2. Address

To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

WE, your Majesty's most dutiful and loyal subjects, the Senate and Commons of the Dominion of Canada in Parliament assembled, humbly approach your Majesty for the purpose of representing:

That, during the first session of the first Parliament of this Dominion, we adopted an Address to your Majesty, praying that your Majesty would be graciously pleased, by and with the advice of your Majesty's Most Honourable Privy Council under the provisions of the 146th Section of the British North America Act, 1867, and on the terms specified in that Address, to unite Rupert's Land and the North-West Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government, and assuring your Majesty of the willingness of the Parliament of Canada to assume the duties and obligations of government and legislation as regards those territories.

That our joint Address was duly laid at the foot of the Throne, and that your Majesty, by despatch from the Right Honourable the Secretary of State for the Colonies to the Governor General of Canada, under date of the 23rd April, 1868, signified your Majesty's willingness to comply with the prayer of the said Address, but that your Majesty was advised that the requisite powers of government and legislation could not, consistently with the existing charter of the Hudson's Bay Company, be transferred to Canada without an Act of Parliament, which Act was subsequently passed by the Imperial Parliament, and received your Majesty's assent on the 31st July, 1868.

That by a despatch dated 8th August, 1868, from the Honourable the Secretary of State for the Colonies, the Governor General was informed that in pursuance of the powers conferred by the Act for the surrender of the Hudson's Bay territories to your Majesty he proposed to enter into negotiations with the company as to the terms of such surrender, whereupon, under authority of an Order of the Governor-General in Council,

of the 1st October, 1868, the Honourable Sir Georges-E. Cartier, Baronet, and the Honourable William MacDougall, C.B., were appointed a delegation to England to arrange the terms for the acquisition by Canada of Rupert's Land, and by another Order in Council of the same date, were authorized to arrange for the admission of the North-West Territory into union with Canada either with or without Rupert's Land, as might be found practicable and expedient.

That the delegates proceeded on their mission to England, and entered into negotiations with His Grace the Duke of Buckingham and Chandos, then Secretary of State for the Colonies, and afterwards with the Right Honourable Earl Granville, his successor in office, for the acquisition by Canada of the territorial and other rights claimed by the Hudson's Bay Company in Rupert's Land, and in any other part of British North America not comprised in Rupert's Land, Canada or British Columbia, on the terms conditionally agreed to on behalf of the Government of Canada by the Honourable Sir Georges-E. Cartier, Baronet, and the Honourable William MacDougall, C.B., and on behalf of the Hudson's Bay Company by Sir Stafford H. Northcote, Governor of that Company, and approved by His Excellency in Council as aforesaid, which terms are set forth in a letter from Sir Frederic Rogers, Under-Secretary of State for the Colonies, of the 9th March, 1869, communicated to the delegates by direction of Earl Granville, and in two subsequent Memorandums dated respectively 22nd and 29th March, 1869, containing a modification of such terms, and are in the words and figures following:

*"Terms, as stated in the Letter from Sir Frederic Rogers
of 9th March, 1869.*

(These terms as set forth on pages 146, 147 supra are here recited at length.)

"MEMORANDUM

*"Details of Agreement between the Delegates of the Government of the
Dominion and the Directors of the
Hudson's Bay Company.*

(This memorandum as set forth on pages 147, 148 supra is here recited at length.)

*"Memorandum of a further Agreement between Sir Geo.-E. Cartier
and Sir Stafford Northcote.*

*(This memorandum, also above set forth, is here
recited at length.)*

That we learn with satisfaction by letter from the Under-Secretary of State for the Colonies, of the 9th March last, that, in fulfilment of the expectations held out in Mr. Cardwell's despatch of the 17th of June, 1865, your Majesty's Government will be prepared by propose to Parliament that the Imperial guarantee be given to a loan of 300,000*l.* the amount which is proposed to be paid over by Canada on the transfer of the Company's rights.

That upon the transference of the territories in question to the Canadian Government it will be our duty to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer, and we authorize and empower the Governor in Council to arrange any details that may be necessary to carry out the terms and conditions of the above agreement.

We therefore most humbly pray that your Majesty will be graciously pleased, by and with the advice of your Most Honourable Privy Council, under the 146th clause of the British North America Act, 1867, and the provisions of the Imperial Act 31-32 Vict., chapter 105, to unite Rupert's Land on the terms and conditions expressed in the foregoing resolutions

and also to unite the North-Western Territory with the Dominion of Canada as prayed for by and on the terms and conditions contained in our joint Address adopted during the first session of the first Parliament of this Dominion, and hereinbefore referred to.

The Senate, Monday, May 31, 1869.

(Signed) JOSEPH CAUCHON, *Speaker*.

House of Commons, Ottawa, May 29, 1869.

(Signed) JAMES COCKBURN, *Speaker*.

SCHEDULE (C)

The Governor and Company of Adventurers of England trading into Hudson's Bay to HER MAJESTY QUEEN VICTORIA.

DEED OF SURRENDER

To all whom these presents shall come unto, or concern, the Governor and Company of Adventurers of England, trading into Hudson's Bay, send greeting.

WHEREAS the said Governor and Company were established and incorporated by their said name of "The Governor and Company of Adventurers of England, trading into Hudson's Bay," by Letters Patent granted by His late Majesty King Charles the Second in the twenty-second year of his reign, whereby His said Majesty granted unto the said company and their successors the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds in whatsoever latitude they should be, that lay within the entrance of the straits commonly called Hudson's Straits together with all the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid that were not already actually possessed by, or granted to, any of His Majesty's subjects, or possessed by the subjects of any other Christian Prince or State, and that the said land should be from thenceforth reckoned and reputed as one of His Majesty's Plantations or Colonies in America, called Rupert's Land; and whereby His said Majesty made and constituted the said Governor and Company and their successors the absolute lords and proprietors of the same territory, limits and places aforesaid, and of all other the premises saving the faith, allegiance and sovereign dominion due to His said Majesty, his heirs and successors for the same; and granted to the said Governor and Company and their successors, such rights of Government and other rights, privileges and liberties, franchises, powers and authorities in Rupert's Land as therein expressed. And whereas ever since the date of the said Letters Patent, the said Governor and Company have exercised and enjoyed the sole right thereby granted of such trade and commerce as therein mentioned, and have exercised and enjoyed other rights, privileges, liberties, franchises, powers, and authorities thereby granted; and the said Governor and Company may have exercised or assumed rights of Government in other parts of British North America not forming part of Rupert's Land, or of Canada, or of British Columbia. And whereas by the British North America Act, 1867, it is (amongst other things) enacted that it shall be lawful for Her present Majesty Queen Victoria, by and with the advice and consent of Her Majesty's Most Honourable Privy Council, on address from the Houses of Parliament of Canada, to admit Rupert's Land and the North-Western Territory or either of them into the Union of the Dominion of Canada on such terms and conditions as are in the Address expressed, and as Her Majesty thinks fit to approve, subject to the provisions of the said Act. And whereas, by the Rupert's Land Act, 1868, it is enacted (amongst other things) that for the purposes of that Act the term "Rupert's Land" shall include the whole of the lands and territories held or claimed to be held by the said Governor and

Company, and that it shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty, by any instrument under Her Sign Manual and Signet to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers and authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, upon such terms and conditions as shall be agreed upon by and between Her Majesty and the said Governor and Company; provided, however, that such surrender shall not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land shall be admitted into the said Dominion of Canada shall have been approved of by Her Majesty, and embodied in an Address to Her Majesty from the Houses of the Parliament of Canada, in pursuance of the 146th Section of the British North America Act, 1867, and that upon the acceptance by Her Majesty of such surrender, all rights of Government and proprietary rights, and all other privileges, liberties, franchises, powers and authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, and which shall have been so surrendered, shall be absolutely extinguished, provided that nothing in the said Act contained shall prevent the said Governor and Company from continuing to carry on in Rupert's Land or elsewhere trade and commerce. And whereas Her said Majesty Queen Victoria and the said Governor and Company have agreed to terms and conditions upon which the said Governor and Company shall surrender to Her said Majesty, pursuant to the provisions in that behalf in the Rupert's Land Act, 1868, contained, all the rights of Government and other rights, privileges, liberties, franchises, powers and authorities, and all the lands and territories (except and subject as in the said terms and conditions expressed or mentioned) granted or purported to be granted by the said Letters Patent, and also all similar rights which have been exercised or assumed by the said Governor and Company in any parts of British North America not forming part of Rupert's Land, or of Canada, or of British Columbia, in order and to the intent that, after such surrender has been effected and accepted under the provisions of the last-mentioned Act, the said Rupert's Land may be admitted into the Union of the Dominion of Canada, pursuant to the hereinbefore mentioned Acts or one of them. And whereas the said terms and conditions on which it has been agreed that the said surrender is to be made by the said Governor and Company (who are in the following articles designated as the Company) to Her said Majesty are as follows (that is to say):

1. The Canadian Government shall pay to the Company the sum of 300,000*l.* sterling when Rupert's Land is transferred to the Dominion of Canada.

2. The Company to retain all the posts or stations now actually possessed and occupied by them or their officers or agents whether in Rupert's Land or any other part of British North America, and may within twelve months after the acceptance of the said surrender select a block of land adjoining each of their posts or stations, within any part of British North America, not comprised in Canada and British Columbia in conformity, except as regards the Red River Territory, with a list made out by the Company and communicated to the Canadian Ministers, being the list in the annexed schedule. The actual survey is to be proceeded with, with all convenient speed.

3. The size of each block is not to exceed in the Red River Territory an amount to be agreed upon between the Company and the Governor of Canada in Council.

4. So far as the configuration of the country admits, the blocks shall front the river or road by which means of access are provided, and shall be approximately in the shape of parallelograms, and of which the frontage shall not be more than half the depth.

5. The Company may, at any time within fifty years after such acceptance of the said surrender, claim in any township or district within the fertile belt in which land is set out for settlements, grants of land not exceeding one-twentieth part of the land so set out; the blocks so granted to be determined by lot, and the Company to pay a rateable share of the survey expenses, not exceeding 8 cents Canadian an acre. The Company may defer the exercise of their right of claiming their proportion of each township or district for not more than ten years after it is set out, but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

6. For the purpose of the last article the fertile belt is to be bounded as follows:—On the south by the United States' boundary; on the west by the Rocky Mountains; on the north by the Northern Branch of the Saskatchewan River; on the east by Lake Winnipeg, the Lake of the Woods and the waters connecting them.

7. If any township shall be formed abutting on the north bank of the northern branch of the Saskatchewan River, the Company may take their one-twentieth of any such township, which, for the purpose of this article, shall not extend more than five miles inland from the river, giving to the Canadian Dominion an equal quantity of the portion of land coming to them of townships established on the southern bank of the said river.

8. In laying out any public roads, canals or other public works, through any block of land reserved to the Company, the Canadian Government may take without compensation such land as is necessary for the purpose, not exceeding one-twenty-fifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, the said Government shall pay to the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

9. It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause, shall be appropriated for public purposes.

10. All titles to land up to the eighth day of March, one thousand eight hundred and sixty-nine, conferred by the Company, are to be confirmed.

11. The Company is to be at liberty to carry on its trade without hindrance in its corporate capacity; and no exceptional tax is to be placed on the Company's land, trade or servants, nor any import duty on goods introduced by the said Company previously to such acceptance of the said surrender.

12. Canada is to take over the materials of the electric telegraph at cost price; such price including transport, but not including interest for money, and subject to a deduction for ascertained deterioration.

13. The Company's claim to land under an agreement of Messrs. Vankoughnet and Hopkins is to be withdrawn.

14. Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government; and the Company shall be relieved of all responsibility in respect of them.

And whereas the surrender hereinafter contained is intended to be made in pursuance of the agreement, and upon the terms and conditions hereinbefore stated.

Now know ye, and these presents witness, that, in pursuance of the powers and provisions of the Rupert's Land Act, 1868, and on the terms and conditions aforesaid, and also on condition of this surrender being accepted pursuant to the provisions of that Act, the said Governor and Company do hereby surrender to the Queen's Most Gracious Majesty all

the rights of Government, and other rights, privileges, liberties, franchises, powers and authorities, granted or purported to be granted to the said Governor and Company by the said recited Letters Patent of His late Majesty King Charles the Second; and also all similar rights which may have been exercised or assumed by the said Governor and Company in any parts of British North America, not forming part of Rupert's Land or of Canada, or of British Columbia, and all the lands and territories within Rupert's Land (except and subject as in the said terms and conditions mentioned) granted or purported to be granted to the said Governor and Company by the said Letters Patent. In witness whereof, the Governor and Company of Adventurers of England trading into Hudson's Bay, have hereunto caused their Common Seal to be affixed, the nineteenth day of November, One thousand eight hundred and sixty-nine.

THE SCHEDULE ABOVE REFERRED TO
Northern Department, RUPERT'S LAND

District	Post	Acres of Land
English River.....	Isle à la Crosse.....	50
	Rapid River.....	5
	Portage La Loche.....	20
	Green Lake.....	100
	Cold Lake.....	10
	Deer's Lake.....	5
		say 10 acres each end of portage.
		190 acres in English River District.
Saskatchewan.....	Edmonton House.....	3,000
	Rocky Mountain House.....	500
	Fort Victoria.....	3,000
	St. Paul.....	3,000
	Fort Pitt.....	3,000
	Battle River.....	3,000
	Carlton House.....	3,000
	Fort Albert.....	3,000
	Whitefish Lake.....	500
	Lac La Biche.....	1,000
	Fort Assiniboine.....	50
	Lesser Slave Lake.....	500
	Lac St. Anne.....	500
	Lac La Nun.....	500
	St. Albert.....	1,000
	Pigeon Lake.....	100
	Old White Mud Fort....	50
		25,700 acres in Saskatchewan District.
Cumberland.....	Cumberland House.....	100
	Fort La Cocue.....	3,000
	Pelican Lake.....	50
	Moose Woods.....	1,000
	The Pas.....	25
	Moose Lake.....	50
	Grande Rapid Portage..	100
		50 acres at each end of portage.
		4,325 acres in Cumberland District.
Swan River.....	Fort Pelly.....	3,000
	Fort Ellice.....	3,000
	Qu'Appelle Lakes.....	2,500
	Touchwood Hills.....	500
	Shoal River.....	50
	Manitobah.....	50
	Fairford.....	100
		9,200 acres in Swan River District.
Red River.....	Upper Fort Garry and Town of Winnipeg....	{ Such number of acres as may be agreed upon between the Company and the Governor of Canada in Council.
	Lower Fort Garry (including the farm the Company now have under cultivation).....	
	White Horse Plain.....	

Northern Department, RUPERT'S LAND—Continued

District	Post	Acres of Land
Manitobah Lake.....	Oak Point.....	50
Portage La Prairie...		1,000
		1,050
Lake La Pluie.....	Fort Alexander.....	500
	Fort Frances.....	500
	Eagle's Nest.....	20
	Big Island.....	20
	Lac du Bonnet.....	20
	Rat Portage.....	50
	Shoal Lake.....	20
	Lake of the Woods.....	50
	Whitefish Lake.....	20
	English River.....	20
	Hungry Hall.....	20
	Trout Lake.....	20
	Clear Water Lake.....	20
	Sandy Point.....	20
		1,300 acres in Lac La Pluie District.
York.....	York Factory.....	100
	Churchill.....	10
	Severn.....	10
	Trout Lake.....	10
	Oxford.....	100
	Jackson's Bay.....	10
	God's Lake.....	10
	Island Lake.....	10
		260
Norway House.....	Norway House.....	100
	Berens' River.....	25
	Grand Rapid.....	10
	Nelson's River.....	10
		145
Total in Northern Department.....		42,170 acres.

Southern Department, RUPERT'S LAND

Albany.....	Albany Factory.....	100
	Martin's Falls.....	10
	Osnaburg.....	25
	Lac Seul.....	500
		635
East Main.....	Little Whale River.....	50
	Great Whale River.....	50
	Fort George.....	25
		125
Moose.....	Moose Factory.....	100
	Hannah Bay.....	10
	Abitibi.....	10
	New Brunswick.....	25
		145
Rupert's House.....	Rupert's House.....	50
	Mistassing.....	10
	Temiskamay.....	10
	Woswonaby.....	10
	Meckiskun.....	10
	Pike Lake.....	10
	Nitchequou.....	10
	Kamapiscan.....	10
		120
Kinogumissee.....	Matawagamique.....	50
	Kuckatoosh.....	10
		60
Total in Southern Department.....		1,085 acres.

Montreal Department, RUPERT'S LAND

District	Post	Acres of Land	
Superior.....	Long Lake.....	10	20
Temiscamisque.....	Kakababeagino.....	10	
Labrador.....	Fort Nascopie.....	75	380
	Outposts, ditto.....	25	
	Fort Chimo (Ungava)..	100	
	South River, outposts..	30	
	George's River.....	50	
	Whale River.....	50	
	North's River.....	25	
	False River.....	25	
Total in Montreal Department.....		400 acres.	

Northern Department, NORTH-WEST TERRITORY

Athabasca.....	Fort Chippewyan.....	10	605 acres in Athabasca District.
	Fort Vermilion.....	500	
	Fort Dunvegan.....	50	
	Fort St. John's.....	20	
	Forks of Athabasca River.....	10	
	Battle River.....	5	
	Fond du Lac.....	5	
	Salt River.....	5	
McKenzie's River....	Fort Simpson.....	100	900 acres in McKenzie's R. District.
	Fort Liard.....	300	
	Fort Nelson.....	200	
	The Rapids.....	100	
	Hay River.....	20	
	Fort Resolution.....	20	
	Fort Rae.....	10	
	Fond du Lac.....	10	
	Fort Norman.....	10	
	Fort Good Hope.....	10	
	Peel's River.....	10	
	Lapierre's House.....	16	
Fort Halkett.....	100		
Total in North-West Territory.....		1,505 acres.	

RECAPITULATION

	Acres
Northern Department, Rupert's Land.....	42,170
Southern " ".....	1,085
Montreal " ".....	400
Northern Department, North-West Territory.....	1,505
	45,160

ORDER OF HER MAJESTY IN COUNCIL ADMITTING BRITISH COLUMBIA INTO THE UNION⁽¹⁾

At the Court at Windsor, the 16th day of May, 1871.

PRESENT:

The QUEEN'S Most Excellent Majesty
His Royal Highness Prince ARTHUR

Lord Privy Seal
Earl Cowper
Earl of Kimberley

Lord Chamberlain
Mr. Secretary Cardwell
Mr. Ayrton

WHEREAS by the British North America Act, 1867, provision was made for the Union of the Provinces of Canada, Nova Scotia and New Brunswick into the Dominion of Canada, and it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and of the Legislature of the Colony of British Columbia, to admit that Colony into the said Union, on such terms and conditions as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act; And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

And whereas by Addresses from the Houses of the Parliament of Canada and from the Legislative Council of British Columbia respectively, of which Addresses copies are contained in the Schedule to this Order annexed, Her Majesty was prayed, by and with the advice of Her Most Honourable Privy Council, under the one hundred and forty-sixth section of the herein-before recited Act, to admit British Columbia into the Dominion of Canada on the terms and conditions set forth in the said Addresses.

(1) British Columbia followed Manitoba into the Dominion under Imperial Order in Council of May 16th, 1871. As required by s. 146 of the B.N.A. Act, 1867, the admission of the province was based upon, and the Order in Council (which has, under the Act, the force of an Imperial statute) proceeded upon, addresses of the Parliament of Canada and the Legislature of the Province. At the time when the Dominion Parliament adopted the necessary address British Columbia had not a House of Assembly nor did it enjoy responsible government. The colony had been under a Governor and Legislative Council since 1858. These conditions had been changed, however, by the time of actual entry of the colony into the Dominion. (*See B.C. Statute No. 147 of 1871 and its recitals.*) British Columbia being a settled colony it traced its constitution back to the Crown. Thus unlike the conquered provinces of Quebec and Ontario, it required no statutory provisions as to its constitution upon entry into the Dominion. W. F. O'Connor.—*Report to the Speaker of the Senate* (1939). Annex I, p. 9.

And whereas Her Majesty has thought fit to approve of the said terms and conditions, it is hereby ordered and declared by Her Majesty, by and with the advice of Her Privy Council, in pursuance and exercise of the powers vested in Her Majesty, by the said Act of Parliament, that from and after the twentieth day of July, one thousand eight hundred and seventy-one, the said Colony of British Columbia shall be admitted into and become part of the Dominion of Canada, upon the terms and conditions set forth in the hereinbefore recited Addresses. And in accordance with the terms of the said Addresses relating to the Electoral Districts in British Columbia, for which the first election of members to serve in the House of Commons of the said Dominion shall take place, it is hereby further ordered and declared that such electoral districts shall be as follows:

“New Westminster District” and the “Coast District,” as defined in a public notice issued from the Lands and Works Office in the said Colony, on the 15th day of December, one thousand eight hundred and sixty-nine, by the desire of the Governor and purporting to be in accordance with the provisions of the thirty-ninth clause of the “Mineral Ordinance, 1869,” shall constitute one district, to be designated “New Westminster District” and return one Member.

“Cariboo District” and “Lillooet District,” as specified in the said public notice, shall constitute one district, to be designated “Cariboo District,” and return one Member.

“Yale District” and “Kootenay District,” as specified in the said public notice, shall constitute one District, to be designated “Yale District,” and return one Member.

Those portions of Vancouver Island, known as “Victoria District,” “Esquimalt District,” and “Metchosin District,” as defined in the official maps of those districts which are in the Land Office, Victoria, and are designated respectively, “Victoria District Official Map, 1858,” “Esquimalt District Official Map 1858,” and “Metchosin District Official Map, A.D. 1858,” shall constitute one District, to be designated “Victoria District,” and return two Members.

All the remainder of Vancouver Island, and all such islands adjacent thereto as were formerly dependencies of the late Colony of Vancouver Island shall constitute one district, to be designated “Vancouver Island District,” and return one Member.

And the Right Honourable Earl of Kimberley, one of Her Majesty’s Principal Secretaries of State, is to give the necessary directions therein accordingly.

ARTHUR HELPS.

SCHEDULE

Address of the Senate of Canada
To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Senate of Canada in Parliament assembled, humbly approach Your Majesty for the purpose of representing:

That by a despatch from the Governor of British Columbia, dated 23rd January, 1871, with other papers laid before this House, by message from His Excellency the Governor General, of the 27th February last, this House learns that the Legislative Council of that colony, in council assembled, adopted, in January last, an Address representing to Your Majesty that British Columbia was prepared to enter into Union with the Dominion of Canada, upon the terms and conditions mentioned in the said Address, which is as follows:

To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of British Columbia, in council assembled, humbly approach Your Majesty for the purpose of representing:

That, during the last session of the late Legislative Council, the subject of the admission of the Colony of British Columbia into the Union or Dominion of Canada was taken into consideration, and a resolution on the subject was agreed to, embodying the terms upon which it was proposed that this colony should enter the Union;

That after the close of the session, Delegates were sent by the Government of this Colony to Canada to confer with the Government of the Dominion with respect to the admission of British Columbia into the Union upon the terms proposed;

That after considerable discussion by the Delegates with the Members of the Government of the Dominion of Canada, the terms and conditions hereinafter specified were adopted by a Committee of the Privy Council of Canada and were by them reported to the Governor General for his approval;

That such terms were communicated to the Government of this Colony by the Governor General of Canada, in a despatch dated July 7th, 1870, and are as follows:

1. Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

2. British Columbia not having incurred debts equal to those of the other provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments, in advance from the General Government, interest at the rate of five per cent per annum on the difference between the actual amount of its indebtedness at the date of the Union, and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 cents per head of the said population of 60,000, both half-yearly in advance, such grant of 80 cents per head to be augmented in proportion to the increase of population, as may be shown by each subsequent decennial census, until the population amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication between Victoria and San Francisco, and twice a week between Victoria and Olympia; the vessels to be adapted for the conveyance of freight and passengers.

5. Canada will assume and defray the charges for the following services:

- A. Salary of the Lieutenant-Governor;
- B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts;
- C. The charges in respect to the Department of Customs;
- D. The postal and telegraph services;
- E. Protection and encouragement of fisheries;
- F. Provision for the militia;
- G. Lighthouses, buoys and beacons, shipwrecked crews, quarantine and marine hospitals, including a Marine Hospital at Victoria;
- H. The geological survey;
- I. The penitentiary;

And such further charges as may be incident to and connected with the services which by the British North America Act, 1867, appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia into the Dominion of Canada.

7. It is agreed that the existing Customs tariff and Excise duties shall continue in force in British Columbia until the railway from the Pacific Coast and the system of railways in Canada are connected, unless the Legislature of British Columbia should sooner decide to accept the Tariff and Excise Laws of Canada. When Customs and Excise duties are, at the time of the union of British Columbia with Canada, leviable on any goods, wares or merchandises in British Columbia, or in the other Provinces of the Dominion, those goods, wares and merchandises may, from and after the Union, be imported into British Columbia from the Provinces now composing the Dominion, or into either of those Provinces from British Columbia, on proof of payment of the Customs or Excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of Customs or Excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the Tariff and Excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of The British North America Act, 1867.

9. The influence of the Dominion Government will be used to secure the continued maintenance of the naval station at Esquimalt.

10. The provisions of the British North America Act, 1867, shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia in the same way and to the like extent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of the Union, of the construction of a railway from the Pacific towards the

Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia (not to exceed however, twenty (20) miles on each side of said line,) as may be appropriated for the same purpose by the Dominion Government from the public lands of the North-West territories and the Province of Manitoba: Provided that the quantity of land which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and provided further, that until the commencement, within two years, as aforesaid, from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of five per centum per annum, on such sum, not exceeding £100,000 sterling, as may be required for the construction of a first class graving dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land, to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The Constitution of the Executive Authority and of the Legislature of British Columbia shall, subject to the provisions of the British North America Act, 1867, continue as existing at the time of the Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of responsible government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Government of British Columbia, under the authority of the Secretary of State for the Colonies, to amend the existing Constitution of the Legislature by providing that a majority of its Members shall be elective.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty by and with the advice of Her Most Honourable Privy Council may appoint (on addresses from the Legislature of the Colony of British Columbia and of the Houses of Parliament of Canada in the terms of the 146th section of the British

North America Act, 1867,) and British Columbia may in its address specify the electoral districts for which the first election of Members to serve in the House of Commons shall take place.

That terms have proved generally acceptable to the people of this Colony.

That this Council is, therefore, willing to enter into Union with the Dominion of Canada upon such terms, and humbly submit that, under the circumstances, it is expedient that the admission of this Colony into such Union, as aforesaid, should be effected at as early a date as may be found practicable under the provisions of the 146th section of the British North America Act, 1867.

We, therefore, humbly pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the 146th section of British North America Act, 1867, to admit British Columbia into the Union or Dominion of Canada, on the basis of the terms and conditions offered to this Colony by the Government of the Dominion of Canada, hereinbefore set forth; and inasmuch as by the said terms British Columbia is empowered in its address to specify the electoral districts for which the first election of members to serve in the House of Commons shall take place, we humbly pray that such electoral districts may be declared, under the Order in Council, to be as follows:

That "New Westminster District," and the "Coast District," as defined in a public notice issued from the Lands and Works Office on the 15th day of December, 1869, by the desire of the Governor, and purporting to be in accordance with the provisions of the 39th clause of the "Mineral Ordinance, 1869," shall constitute one district, to be designated "New Westminster District," and return one Member.

That "Cariboo District," and "Lillooet District," as specified in the said public notice, shall constitute one district, to be designated "Cariboo District," and return one Member.

That "Yale District," and "Kootenay District," as specified in the said public notice, shall constitute one district, to be designated "Yale District," and return one Member.

That those portions of Vancouver Island known as "Victoria District," "Esquimalt District," and "Metchosin District," as defined in the official maps of those districts in the Land Office, Victoria, and which maps are designated respectively, "Victoria District Official Map, 1858," "Esquimalt District Official Map, 1858," and "Metchosin District Official Map, 1858," shall constitute one district, to be designated "Victoria District," and return two Members.

And that all the remainder of Vancouver Island, and all such islands adjacent thereto as were formerly dependencies of the late colony of Vancouver Island shall constitute one district, to be designated "Vancouver Island District," and return one Member.

We further humbly represent, that the proposed terms and conditions of Union of British Columbia with Canada, as stated in the same Address, are in conformity with those preliminarily agreed upon between delegates from British Columbia and the Members of the Government of the Dominion of Canada, and embodied in a Report of a Committee of the Privy Council, approved by His Excellency the Governor General in Council, on the 1st July, 1870, which approved Report is as follows:

Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 1st of July, 1870.

The Committee of the Privy Council have had under consideration a Despatch, dated the 7th May, 1870, from the Governor of British Columbia, together with certain Resolutions submitted by the Government of that colony to the Legislative Council thereof—both hereunto

annexed—on the subject of the proposed Union of British Columbia with the Dominion of Canada; and after several interviews between them and the Honourable Messrs. Trutch, Helmcken, and Carrall, the Delegates from British Columbia, and full discussion with them of the various questions connected with that important subject, the Committee now respectfully submit to Your Excellency's approval, the following terms and conditions to form the basis of a political union between British Columbia and the Dominion of Canada.

(Here are set forth at length the terms of Union as stated on pages 161, 162, 163, 164 and 165 supra, in the Address of the Legislative Council of British Columbia.)

(Certified) WM. H. LEE,
Clerk Privy Council.

We further humbly represent that we concur in the terms and conditions of Union set forth in the said Address, and approved Report of the Committee of the Privy Council above mentioned; and most respectfully pray that your Majesty will be graciously pleased, by and with the advice of your Majesty's Most Honourable Privy Council, under the 146th clause of The British North America Act, 1867, to unite British Columbia with the Dominion of Canada, on the terms and conditions above set forth.

The Senate, Wednesday, April 5th, 1871.

(Signed) JOSEPH CAUCHON, *Speaker.*

Address of the Commons of Canada

To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Commons of Canada in Parliament assembled, humbly approach Your Majesty for the purpose of representing:

(The balance of the Address is identical in form with the Address of the Senate and is omitted for that reason.)

JAMES COCKBURN, *Speaker.*

House of Commons,

Saturday, 1st April, 1871.

Address of the Legislative Council of British Columbia

To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of British Columbia in Council assembled, humbly approach your Majesty for the purpose of representing:

(Etc., etc., etc. The Address is set forth at length in the Address of the Senate.)

(Signed) PHILIP J. HANKIN,
Speaker.

ORDER OF HER MAJESTY IN COUNCIL ADMITTING PRINCE EDWARD ISLAND INTO THE UNION⁽¹⁾

At the Court at Windsor, the 26th day of June, 1873.

PRESENT:

The QUEEN'S Most Excellent Majesty

Lord President

Earl of Kimberley

Earl Granville

Lord Chamberlain

Mr. Gladstone

WHEREAS by the British North America Act, 1867, provision was made for the Union of the Provinces of Canada, Nova Scotia and New Brunswick into the Dominion of Canada, and it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and of the Legislature of the Colony of Prince Edward Island, to admit that Colony into the said Union on such terms and conditions as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act; and it was further enacted that the provisions of any Order in Council in that behalf, should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

And whereas by Addresses from the Houses of the Parliament of Canada, and from the Legislative Council and House of Assembly of Prince Edward Island respectively, of which Addresses, copies are contained in the Schedule to this Order

(1) "The third in order of entry of the new provinces into the Dominion was Prince Edward Island, which, originally constituting part of Nova Scotia, had enjoyed representative institutions since 1773. The date of the Imperial Order in Council in the case of Prince Edward Island is June 26th, 1873. It was based upon and embodied the terms of the addresses of the Parliament of the Dominion and the Legislature of the Province, which, having been a settled colony it was only necessary for the Order in Council to provide concerning its constitution that "the constitution of the Executive authority and of the Legislature of Prince Edward Island shall, subject to the provisions of the B.N.A. Act, 1867, continue as at the time of the Union, until altered under the authority of the said Act."

The status of the province in Confederation is provided for by the Imperial Order in Council in the customary terms, as in the case of British Columbia, that the provisions of the B.N.A. Act, 1867, shall (except &c., and except &c.) apply to the province in the same way and to the like extent as they apply to the other provinces of the Dominion, and as if Prince Edward Island had been one of the provinces originally united by the said Act." W. F. O'Connor.—*Report to the Speaker of the Senate* (1939). Annex I. page 9.

annexed, Her Majesty was prayed, by and with the advice of Her Most Honourable Privy Council, under the one hundred and forty-sixth section of the hereinbefore recited Act, to admit Prince Edward Island into the Dominion of Canada, on the terms and conditions set forth in the said Addresses.

And whereas Her Majesty has thought fit to approve of the said terms and conditions, it is hereby ordered and declared by Her Majesty, by and with the advice of Her Privy Council, in pursuance and exercise of the powers vested in Her Majesty, by the said Act of Parliament, that from and after the first day of July, one thousand eight hundred and seventy-three, the said Colony of Prince Edward Island shall be admitted into and become part of the Dominion of Canada, upon the terms and conditions set forth in the hereinbefore recited Addresses.

And in accordance with the terms of the said Addresses relating to the Electoral Districts for which, the time within which, and the laws and provisions under which the first election of members to serve in the House of Commons of Canada, for such Electoral Districts shall be held, it is hereby further ordered and declared that "Prince County" shall constitute one district, to be designated "Prince County District," and return two members that "Queen's County" shall constitute one district, to be designated "Queen's County District," and return two members; that "King's County" shall constitute one district, to be designated "King's County District," and return two members; that the election of members to serve in the House of Commons of Canada, for such Electoral Districts shall be held within three calendar months from the day of the admission of the said Island into the Union or Dominion of Canada; that all laws which at the date of this Order in Council relating to the qualification of any person to be elected or sit or vote as a member of the House of Assembly of the said Island, and relating to the qualifications or disqualifications of voters, and to the oaths to be taken by voters, and to Returning Officers and Poll Clerks, and their powers and duties, and relating to Polling Divisions within the said Island, and relating to the proceedings at elections, and to the period during which such elections may be continued, and relating to the trial of controverted elections, and the proceedings incidental thereto, and relating to the vacating of seats of the members, and to the execution of new writs, in the case of any seat being vacated otherwise than by a dissolution, and to all other matters connected with or incidental to elections of members to serve in the House of Assembly of the said Island, shall apply to elections of members to serve in the House of Commons for the Electoral Districts situate in the said Island of Prince Edward.

And the Right Honourable Earl of Kimberley, one of Her Majesty's Principal Secretaries of State is to give the necessary directions herein, accordingly.

ARTHUR HELPS.

SCHEDULE

To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Commons of the Dominion of Canada in Parliament assembled, humbly approach Your Majesty for the purpose of representing:

That during the present Session of Parliament we have taken in consideration the subject of the admission of the Colony of Prince Edward Island into the Union or Dominion of Canada, and have resolved that it is expedient that such admission should be effected at as early a date as may be found practicable under the one hundred and forty-sixth section of the British North America Act, 1867, on the conditions hereinafter set forth, which have been agreed upon with the Delegates from the said Colony that is to say:

That Canada shall be liable for the debts and liabilities of Prince Edward Island at the time of the Union;

That in consideration of the large expenditure authorized by the Parliament of Canada for the construction of railways and canals, and in view of the possibility of a readjustment of the financial arrangements between Canada and the several Provinces now embraced in the Dominion, as well as the isolated and exceptional condition of Prince Edward Island, that Colony shall, on entering the Union, be entitled to incur a debt equal to fifty dollars per head of its population, as shewn by the Census Returns of 1871, that is to say: four millions seven hundred and one thousand and fifty dollars;

That Prince Edward Island not having incurred debts equal to the sum mentioned in the next preceding Resolution, shall be entitled to receive, by half-yearly payments, in advance, from the General Government, interest at the rate of five per centum per annum on the difference, from time to time, between the actual amount of its indebtedness and the amount of indebtedness authorized as aforesaid, viz., four millions seven hundred and one thousand and fifty dollars;

That Prince Edward Island shall be liable to Canada for the amount (if any) by which its public debts and liabilities at the date of the Union, may exceed four millions seven hundred and one thousand and fifty dollars and shall be chargeable with interest at the rate of five per centum per annum on such excess;

That as the Government of Prince Edward Island holds no lands from the Crown, and consequently enjoys no revenue from that source for the construction and maintenance of local works, the Dominion Government shall pay by half-yearly instalments, in advance, to the Government of Prince Edward

Island, forty-five thousand dollars per annum, less interest at five per centum per annum, upon any sum not exceeding eight hundred thousand dollars which the Dominion Government may advance to the Prince Edward Island Government for the purchase of lands now held by large proprietors;

That in consideration of the transfer to the Parliament of Canada of the powers of taxation, the following sums shall be paid yearly by Canada to Prince Edward Island, for the support of its Government and Legislature, that is to say, thirty thousand dollars, and an annual grant equal to eighty cents per head of its population, as shown by the Census returns of 1871, viz., 94,021, both by half-yearly payments in advance—such grant of eighty cents per head to be augmented in proportion to the increase of population of the Island as may be shown by each subsequent decennial Census, until the population amounts to four hundred thousand, at which rate such grant shall thereafter remain, it being understood that the next Census shall be taken in the year 1881;

That the Dominion Government shall assume and defray all the charges for the following services, viz.:

The salary of the Lieutenant-Governor;

The salaries of the Judges of the Superior Court and of the District or County Courts when established;

The charges in respect of the Department of Customs;

The Postal Department;

The protection of the Fisheries;

The provision for the Militia;

The Lighthouses, Shipwrecked Crews, Quarantine and Marine Hospitals;

The Geological Survey;

The Penitentiary;

Efficient Steam Service for the conveyance of mails and passengers, to be established and maintained between the Island and the mainland of the Dominion, Winter and Summer, thus placing the Island in continuous communication with the Inter-colonial Railway and the railway system of the Dominion;

The maintenance of telegraphic communication between the Island and the mainland of the Dominion;

And such other charges as may be incident to, and connected with, the services which by the British North America Act, 1867, appertain to the General Government, and as are or may be allowed to the other Provinces;

That the railways under contract and in course of construction for the Government of the Island, shall be the property of Canada;

That the new building in which are held the Law Courts, Registry Office, etc., shall be transferred to Canada, on the payment of sixty-nine thousand dollars. The purchase to include the land on which the building stands, and a suitable space of ground in addition, for yard room, etc.;

That the Steam Dredge Boat in course of construction, shall be taken by the Dominion, at a cost not exceeding twenty-two thousand dollars;

That the Steam Ferry Boat owned by the Government of the Island, and used as such, shall remain the property of the Island;

That the population of Prince Edward Island having been increased by fifteen thousand or upwards since the year 1861, the Island shall be represented in the House of Commons of Canada by six Members; the representation to be readjusted, from time to time, under the provisions of the British North America Act, 1867;

That the constitution of the Executive Authority and of the Legislature of Prince Edward Island, shall, subject to the provisions of the British North America Act, 1867, continue, as at the time of the Union, until altered under the authority of the said Act, and the House of Assembly of Prince Edward Island existing at the date of the Union shall, unless sooner dissolved, continue for the period for which it was elected;

That the provisions in the British North America Act, 1867, shall, except those parts thereof which are in terms made, or by reasonable intendment, may be held to be especially applicable to, and only to affect one and not the whole of the Provinces now composing the Dominion, and except so far as the same may be varied by these resolutions, be applicable to Prince Edward Island, in the same way and to the same extent as they apply to the other Provinces of the Dominion, and as if the Colony of Prince Edward Island had been one of the Provinces originally united by the said Act.

That the Union shall take place on such day as Her Majesty may direct by Order in Council, on Addresses to that effect from the House of Parliament of Canada and of the Legislature of the Colony of Prince Edward Island, under the one hundred and forty-sixth section of the British North America Act, 1867, and that the Electoral Districts for which, the time within which, and the laws and provisions under which, the first Election of Members to serve in the House of Commons of Canada for such Electoral Districts shall be held, shall be such as the said Houses of the Legislature of the said Colony of Prince Edward Island may specify in their said Addresses.

We, therefore, humbly pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the

one hundred and forty-sixth section of the British North America Act, 1867, to admit Prince Edward Island into the Union or Dominion of Canada, on the terms and conditions hereinbefore set forth.

(Signed) JAMES COCKBURN,
Speaker.

HOUSE OF COMMONS,
20th May, 1873.

The Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Senate of the Dominion of Canada in Parliament assembled, humbly approach Your Majesty for the purpose of representing:

That on the sixteenth day of May, instant, His Excellency the Governor General transmitted for our information a copy of the minutes of a Conference between a Committee of the Privy Council of Canada and certain Delegates from the Colony of Prince Edward Island, on the subject of the Union of the said Colony with the Dominion of Canada, and of the Resolutions adopted by them, as the basis of such Union, which are in the following words, that is to say:

(Here follows a statement of the conditions of Union as set forth in the Address of the House of Commons, supra, pages 170, 171 and 172.)

The House of Commons having in the present Session of the Parliament of the Dominion passed an Address to Your Majesty, praying that Your Majesty would be graciously pleased, by and with the advice of Your Most Honourable Privy Council, under the provisions of the one hundred and forty-sixth section of the British North America Act, 1867, to admit Prince Edward Island into the Union or Dominion of Canada, on the terms and conditions set forth in the above-mentioned Resolutions.

Wherefore, we, the Senate of Canada, fully concurring in the terms and conditions expressed in the Address of the House of Commons, humbly pray that Your Majesty will be pleased, by and with the advice of Your Most Honourable Privy Council, under the provisions of the one hundred and forty-sixth section of the British North America Act, 1867, to admit Prince Edward Island into the Dominion of Canada.

(Signed) P. J. O. CHAUVEAU,
Speaker of the Senate.

THE SENATE, May 21, 1873.

To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Legislative Council of Prince Edward Island, in Parliament assembled, humbly approach Your Majesty, and pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the one hundred and forty-sixth section of the British North America Act, 1867, to admit Prince Edward Island into the Union or Dominion of Canada, on the terms and conditions expressed in certain Resolutions recently passed by Houses of the Parliament of Canada, and also by the Houses of the Legislature of Prince Edward Island, which said Resolutions are as follows:

(Here follows a statement of the conditions of Union as set forth in the Address of the House of Commons, supra.)

That for the first election of members to be returned by this Island for the House of Commons of the Dominion of Canada, this Island shall be divided into Electoral Districts as follows:—That "Prince County" shall constitute one district and return two members; that "Queen's County" shall constitute one district, and return two members, that "King's County" shall constitute one district, and return two members, that the first election of members to serve in the House of Commons of Canada, shall take place within three calendar months after this Island shall be admitted, and become part of the Dominion of Canada; and we further humbly pray, that all laws which at the date of the Order in Council, by which the said Island of Prince Edward shall be admitted into the Dominion of Canada, relating to the qualification of any person to be elected to sit or vote as a member of the House of Assembly of the said Island, and relating to the qualifications or disqualifications of voters, and to the oaths to be taken by voters, and to returning officers and poll clerks, and their powers and duties, and relating to polling divisions within the said Island, and relating to the proceedings at elections, and to the period during which such election may be continued, and relating to the trial of controverted elections and the proceedings incident thereto, and relating to the vacating of seats of members and to the execution of new writs, in case of any seat being vacated otherwise than by a dissolution, and all other matters connected with or incidental to elections of members to serve in the House of Assembly of the said Island, shall apply to elections of members to serve in the House of Commons for the Electoral Districts, situate in the said Island of Prince Edward.

(Signed) DONALD MONTGOMERY,
President.

COMMITTEE ROOM, LEGISLATIVE COUNCIL,
May 28, 1873.

To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the House of Assembly of Prince Edward Island in Parliament assembled, humbly approach Your Majesty, and pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the one hundred and forty-sixth section of the British North America Act, 1867, to admit Prince Edward Island into the Union or Dominion of Canada, on the terms and conditions expressed in certain Resolutions recently passed by the Houses of the Parliament of Canada, and also by the Houses of the Legislature of Prince Edward Island, which said Resolutions are as follows:

(Here follows a statement of the conditions of Union as set forth in the Address of the House of Commons, supra, and the Address concludes with a paragraph identical with the last paragraph of the Address of the Legislative Council of Prince Edward Island, supra.)

(Signed)

STANISLAUS F. PERRY,
Speaker.

HOUSE OF ASSEMBLY,
May 28, 1873.

ORDER OF HER MAJESTY IN COUNCIL
ADMITTING ALL BRITISH TERRITORIES
AND POSSESSIONS IN NORTH AMERICA
AND ALL ISLANDS ADJACENT THERETO
INTO THE UNION⁽¹⁾

At the Court at Osborne House, Isle of Wight, the 31st
day of July, 1880.

PRESENT:

The Queen's Most Excellent Majesty

Lord President
Lord Steward
Lord Chamberlain

WHEREAS it is expedient that all British Territories and Possessions in North America, and the Islands adjacent to such Territories and Possessions which are not already included in the Dominion of Canada, should (with the exception of the Colony of Newfoundland and its dependencies) be annexed to and form part of the said Dominion.

And whereas, the Senate and Commons of Canada in Parliament assembled, have, in and by an Address, dated the 3rd day of May, 1878, represented to Her Majesty "That it is desirable that the Parliament of Canada, on the transfer of the before-mentioned Territories being completed, should have authority to legislate for their future welfare and good government, and the power to make all needful rules and regulations respecting them, the same as in the case of the other territories (of the Dominion); and that the Parliament of Canada expressed its willingness to assume the duties and obligations consequent thereon:"

And whereas, Her Majesty is graciously pleased to accede to the desire expressed in and by the said Address:

Now, therefore, it is hereby ordered and declared by Her Majesty, by and with the advice of Her Most Honourable Privy Council, as follows:—

From and after the first day of September, 1880, all British Territories and Possessions in North America, not already

(1) It should be noticed that the Order in Council mentions "all British Territories and Possessions in North America, not already included within the Dominion of Canada, and all Islands adjacent to any of such Territories or Possessions" but "with the exception of the Colony of Newfoundland and its dependencies". See B.N.A. Act, 1949.

included within the Dominion of Canada, and all Islands adjacent to any of such Territories or Possessions, shall (with the exception of the Colony of Newfoundland and its dependencies) become and be annexed to and form part of the said Dominion of Canada; and become and be subject to the laws for the time being in force in the said Dominion, in so far as such laws may be applicable thereto.

C. L. PEEL.

PART IV

FEDERAL ACTS

**RELATING TO THE FORMATION, ESTABLISHMENT,
BOUNDARIES, NATURAL RESOURCES, ETC.,
OF THE PROVINCES.**

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ACTS OF CANADA

THE NORTH-WEST TERRITORIES ACT

32-33 VICTORIA, CHAPTER 3⁽¹⁾

An Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada

[Assented to 22nd June, 1869.]

WHEREAS it is probable that Her Majesty the Queen may, pursuant to "The British North America Act, 1867", be pleased to admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, before the next Session of the Canadian Parliament: And whereas it is expedient to prepare for the transfer of the said Territories from the Local Authorities to the Government of Canada, at the time appointed by the Queen for such admission, and to make some temporary provision for the Civil Government of such Territories until more permanent arrangements can be made by the Government and Legislature of Canada: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. The said Territories when admitted as aforesaid, shall be styled and known as "The North-West Territories."

Name of territories.

2. It shall be lawful for the Governor, by any Order or Orders, to be by him from time to time made, with the advice of the Privy Council (and subject to such conditions and restrictions as to him shall seem meet), to authorize and empower such Officer as he may from time to time appoint as Lieutenant-Governor of the North-West Territories, to make provision for the administration of Justice therein, and generally to make, ordain, and establish all such Laws, Institutions and Ordinances as may be necessary for the Peace, Order and good Government of Her Majesty's subjects and others therein; provided that all such Orders in Council, and all Laws and Ordinances, so to be made as aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

Appointment and functions of Lieutenant-Governor.

(1) This Act was first extended and continued by s. 36 of c. 3 of the Statutes of Canada, 1870 (33 Vict., c. 3) (*see* p. 187). Then these two Acts were confirmed by the Imperial Act 34-35 Vict., c. 28 (*see supra* at p. 71, s. 5). Chapter 16 of the Statutes of 1871 made provision for the government of the North-West Territories after the expiration of 32-33 Vict., c. 3. The laws respecting the North-West Territories were amended and consolidated by c. 49 of the Statutes of 1875, "*The North-West Territories Act, 1875.*"

The Act which is now in force is the *Northwest Territories Act*, c. 331 of the Revised Statutes of Canada, 1952, as amended by 1953-54, c. 8; 1955, cc. 21, 48; 1957-58, c. 30; 1959, c. 7, 1960, cc. 20, 46.

Instructions
to
Lieutenant-
Governor.

3. The Lieutenant-Governor shall administer the Government under instructions from time to time given him by Order in Council.

Appointment
of Council to
Lieutenant-
Governor.

4. The Governor may, with the advice of the Privy Council, constitute and appoint, by Warrant under his Sign Manual, a Council of not exceeding fifteen nor less than seven persons, to aid the Lieutenant-Governor in the administration of affairs, with such powers as may be from time to time conferred upon them by Order in Council.

Existing
laws to
remain in
force.

5. All the Laws in force in Rupert's Land and the North-Western Territory, at the time of their admission into the Union, shall, so far as they are consistent with "The British North America Act, 1867",—with the terms and conditions of such admission approved of by the Queen under the 146th section thereof,—and with this Act,—remain in force until altered by the Parliament of Canada, or by the Lieutenant-Governor under the authority of this Act.

Public
officers etc.,
to retain
office.

6. All Public Officers and Functionaries holding office in Rupert's Land and the North-Western Territory, at the time of their admission into the Union, excepting the Public Officer or Functionary at the head of the administration of affairs, shall continue to be Public Officers and Functionaries of the North-West Territories with the same duties and powers as before, until otherwise ordered by the Lieutenant-Governor, under the authority of this Act.

Duration of
this Act.

7. This Act shall continue in force until the end of the next Session of Parliament.

THE MANITOBA ACT, 1870⁽¹⁾

33 VICTORIA, CHAPTER 3

**An Act to amend and continue the Act 32-33 Vict., c. 3;
and to establish and provide for the Government of the
Province of Manitoba**

[Confirmed by Imperial Act 34-35 Vict., c. 28]

[Assented to 12th May, 1870.]

WHEREAS it is probable that Her Majesty The Queen may, Preamble.
pursuant to the British North America Act, 1867, be pleased
to admit Rupert's Land and the North-Western Territory into
the Union or Dominion of Canada, before the next Session of
the Parliament of Canada.

And whereas it is expedient to prepare for the transfer of the said Territories to the Government of Canada at the time appointed by the Queen for such admission:

And whereas it is expedient also to provide for the organization of part of the said Territories as a Province, and for the establishment of a Government therefor, and to make provision for the Civil Government of the remaining part of the said Territories, not included within the limits of the Province:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

<p>1. On, from and after the day upon which the Queen, by and with the advice and consent of Her Majesty's Most Honourable Privy Council, under the authority of the 146th Section of the British North America Act, 1867, shall, by Order in Council in that behalf, admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, there shall be formed out of the same a Province, which shall be one of the Provinces of the Dominion of Canada, and which shall be called the Province of Manitoba, and be bounded as follows: that is to say, commencing at the point where the meridian of ninety-six degrees west longitude from Greenwich intersects the parallel of forty-nine degrees north latitude,—thence due west along the said parallel of forty-nine degrees north latitude (which forms a portion of the boundary line between the United States of America and the said North-Western Territory) to the meridian of ninety-nine degrees of</p>	<p>Province to be formed out of N.W. territory when united to Canada.</p> <p>Its name and boundaries.</p>
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(1) Manitoba, carved out of the North-West Territories, was the first of the new provinces to be established after Confederation. The Canadian Act of 1870 (above) was passed in anticipation of the Imperial Order in Council (*see* Part III) admitting those territories. The Imperial Act of 1871 (*see* Part II) confirms the Canadian Act. *See also* section 146 of the B.N.A. Act, 1867, *and also* the B.N.A. Act, 1886.

west longitude,—thence due north along the said meridian of ninety-nine degrees west longitude, to the intersection of the same with the parallel of fifty degrees and thirty minutes north latitude,—thence due east along the said parallel of fifty degrees and thirty minutes north latitude to its intersection with the before-mentioned meridian of ninety-six degrees west longitude,—thence due south along the said meridian of ninety-six degrees west longitude to the place of beginning.⁽²⁾

(2) Repealed R.S.C. 1886, Sch. A.

The boundaries as set out in this section have been dealt with from time to time by the following enactments:—

(1881) 44 Vict., c. 14 (Dom.); (1881) 44 Vict., c. 14 (Man.); (1912) 2 Geo. V, c. 32 (Dom.); (1912) 2 Geo. V, c. 6 (Man.); (1928) S.M., c. 3 (Man.); 1930 20-21 Geo. V, c. 28 (Dom.); 1929 S.M., c. 4 (Man.); *see also* R.S.O. 1937, c. 3, Appendix "B"; 1937 S.M., c. 5 (Man.) *see also* S. Sask. 1937, c. 96.

All the territory now known as Manitoba together with other territory, was originally granted to "The Governor and Company of Adventurers of England trading into the Hudson Bay" by charter of King Charles II dated 2nd May, 1670, and therein was named "Rupert's Land", and by said charter authority was given to said Governor and Company to make reasonable laws not inconsistent with those of England for the good government of the said Company, its governors, factors, masters, and other officers employed in any of the territory included in the said charter. The laws so made were known as the laws of Assiniboia (*see* Consolidated Statutes, Manitoba, 1880-81, p. LIV).

Rupert's Land Act (1868) 31-32 Vict., c. 105 (Imp.) was enacted enabling Her Majesty to accept a surrender upon terms of the lands, privileges and rights of "The Governor and Company of Adventurers of England trading into the Hudson Bay", and for admitting the same into the Dominion of Canada, and by an order of Her Majesty in Council dated 23rd June, 1870, Rupert's Land became part of Canada, out of which Manitoba was formed by this Act.

All powers, authorities and jurisdiction of the several courts of justice established at the date of Rupert's Land Act (31st May, 1868) and of the several officers thereof and of all magistrates and justices then acting therein were by that Act continued until the Parliament of Canada otherwise enacted.

By 34 Vict., c. 13 (Dom.), ss. 1 to 6 (14th April, 1871), all enactments of the Parliament of Canada passed in the first three sessions thereof relating generally to all provinces of Canada were declared in force in Manitoba and all inconsistent laws then in force therein were repealed.

By 34 Vict., c. 14 (Dom.), s. 1 (14th April, 1871), certain criminal laws of Canada therein set out were declared in force in Manitoba and section 2 provided that the "court known as the general court, now or hereafter existing in the Province of Manitoba and any court to be hereafter constituted by the Legislature of Manitoba and having the powers now exercised by the general court" should have power to determine and try all criminal cases in Manitoba or in the Territories.

The Supreme Court of Manitoba, now the Court of King's Bench, was established by S.M. 34 Vict., c. 2 (3rd May, 1871), but was not organized and brought into operation until the appointment of its first judge, Honourable Alexander Morris, who took the oath of office on August 14th, 1872.

See article "The Rise of Law in Rupert's Land," Vol. 1, Western Law Times, p. 49.

[The notes to this section are copied without change from the Revised Statutes of Manitoba, 1940, p. 3705.]

It may be noted also that in 1912 part of the district of Keewatin, immediately north of the province, was added to Manitoba.

The boundaries of Manitoba were further dealt with by the *Act to amend The Manitoba Boundaries Extension Act, 1912, and The Ontario Boundaries Extension Act, 1912*, c. 16 of the Statutes of Canada, 1950. *See also* 1953-54, c. 9.

2. On, from and after the said day on which the Order of the Queen in Council shall take effect as aforesaid, the provisions of the British North America Act, 1867, shall, except those parts thereof which are in terms made, or, by reasonable intentment, may be held to be specially applicable to, or only to affect one or more, but not the whole of the Provinces now composing the Dominion, and except so far as the same may be varied by this Act, be applicable to the Province of Manitoba, in the same way, and to the like extent as they apply to the several Provinces of Canada, and as if the Province of Manitoba had been one of the Provinces originally united by the said Act.

Certain provisions of B. N. A. Act, 1867, to apply to Manitoba.

3. The said Province shall be represented in the Senate of Canada by two Members, until it shall have, according to decennial census, a population of fifty thousand souls, and from thenceforth it shall be represented therein by three Members, until it shall have, according to decennial census, a population of seventy-five thousand souls, and from thenceforth it shall be represented therein by four Members.⁽³⁾

Representation in the Senate.

4. The said Province shall be represented, in the first instance, in the House of Commons of Canada, by four Members, and for that purpose shall be divided by proclamation of the Governor General, into four Electoral Districts, each of which shall be represented by one Member: Provided that on the completion of the census in the year 1881, and of each decennial census afterwards, the representation of the said Province shall be re-adjusted according to the provisions of the fifty-first section of the British North America Act, 1867.⁽⁴⁾

Representation in the House of Commons.

5. Until the Parliament of Canada otherwise provides, the qualification of voters at Elections of Members of the House of Commons shall be the same as for the Legislative Assembly hereinafter mentioned: And no person shall be qualified to be elected, or to sit and vote as a Member for any electoral District, unless he is a duly qualified voter within the said Province.⁽⁵⁾

Qualification of voters and members.

6. For the said Province there shall be an officer styled the Lieutenant-Governor, appointed by the Governor General in Council, by instrument under the Great Seal of Canada.

Lieutenant-Governor.

(3) Repealed, R.S.C. 1886, sch. A, p. 2280. Replaced by s. 1 of c. 12 of the R.S. 1886 which granted Manitoba three senators until it had a population of 75,000, from thenceforth Manitoba was to have four senators. This Act was repealed, see R.S.C. 1906, p. 2941. Manitoba, like the other three western provinces, has now six senators. See *supra*, s. 1 of The B.N.A. Act, 1915. [5-6 Geo. V, c. 45.]

(4) Repealed, R.S.C. 1886, sch. A, p. 2280. If there had been a Representation Act in 1943, Manitoba would have had but fourteen members, which is three less than it had by the Representation Act, 1933. (See *ante* B.N.A. Act, 1943, p. 118.) Representation in the House of Commons is governed by s. 51 of The B.N.A. Act, 1867.

(5) Repealed, R.S. 1886, sch. A, p. 2280.

(For present qualifications of voters and members now fixed by "The Manitoba Election Act".—See R.S.M. 1954, c. 68.)

Executive
Council.

7. The Executive Council of the Province shall be composed of such person, and under such designations, as the Lieutenant-Governor shall, from time to time, think fit; and, in the first instance, of not more than five persons.

Seat of
Government.

8. Unless and until the Executive Government of the Province otherwise directs, the seat of Government of the same shall be at Fort Garry, or within one mile thereof.

Legislature.

9. There shall be a Legislature for the Province, consisting of the Lieutenant-Governor, and of two Houses styled respectively, the Legislative Council of Manitoba, and the Legislative Assembly of Manitoba.⁽⁶⁾

Legislative
Council.

10. The Legislative Council shall, in the first instance, be composed of seven Members, and after the expiration of four years from the time of the first appointment of such seven Members, may be increased to not more than twelve Members. Every Member of the Legislative Council shall be appointed by the Lieutenant-Governor in the Queen's name, by Instrument under the Great Seal of Manitoba, and shall hold office for the term of his life, unless and until the Legislature of Manitoba otherwise provides under the British North America Act, 1867.

Members
and their
appoint-
ment, etc.

Speaker.

11. The Lieutenant-Governor may, from time to time, by Instrument under the Great Seal, appoint a Member of the Legislative Council to be Speaker thereof, and may remove him and appoint another in his stead.

Quorum.

12. Until the Legislature of the Province otherwise provides, the presence of a majority of the whole number of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

Voting.

13. Questions arising in the Legislative Council shall be decided by a majority of voices, and the Speaker shall, in all cases, have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

Equality of
votes.

Legislative
Assembly.

14. The Legislative Assembly shall be composed of twenty-four Members, to be elected to represent the Electoral Divisions into which the said Province may be divided by the Lieutenant-Governor, as hereinafter mentioned.⁽⁷⁾

Quorum.

15. The presence of a majority of the Members of the Legislative Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers; and for that purpose the Speaker shall be reckoned as a Member.⁽⁸⁾

(6) The Legislative Council was abolished by the Provincial Legislature (S.M. 1876, *see* c. 28, s. 2). Therefore sections 9 to 13, both inclusive, of this Act are now inoperative.

(7) The Legislative Assembly is now composed of fifty-seven members.—*See* "The Legislative Assembly Act," R.S.M. 1954, c. 141.

(8) A quorum is now fixed at ten members of whom the Speaker may be one.—*See* "The Legislative Assembly Act," R.S.M. 1954, c. 141.

16. The Lieutenant Governor shall (within six months of the date of the Order of Her Majesty in Council, admitting Rupert's Land and the North-Western Territory into the Union), by Proclamation under the Great Seal, divide the said Province into twenty-four Electoral Divisions, due regard being had to existing Local Divisions and population.⁽⁹⁾

Electoral
Division.

17. Every male person shall be entitled to vote for a Member to serve in the Legislative Assembly for any Electoral Division, who is qualified as follows, that is to say:—

Qualifica-
tion of
voters.

- (1) Of the full age of twenty-one years, and not subject to any legal incapacity;
- (2) A subject of Her Majesty by birth or naturalization;
- (3) And a *bonâ fide* householder within the Electoral Division, at the date of the Writ of Election for the same, and has been a *bonâ fide* householder for one year next before the said date; or,
- (4) If, being of the full age of twenty-one years, and not subject to any legal incapacity, and a subject of Her Majesty by birth or naturalization, he was, at any time within twelve months prior to the passing of this Act, and (though in the interim temporarily absent) is at the time of such election a *bonâ fide* householder, and was resident within the Electoral Division at the date of the Writ of Election for the same:

Special,—
for first
election
only.

But this fourth sub-section shall apply only to the first election to be held under this Act for Members to serve in the Legislative Assembly aforesaid.⁽¹⁰⁾

Proviso.

18. For the first election of Members to serve in the Legislative Assembly, and until the Legislature of the Province otherwise provides, the Lieutenant-Governor shall cause writs to be issued, by such person, in such form, and addressed to such Returning Officers as he thinks fit; and for the first election, and until the Legislature of the Province otherwise provides, the Lieutenant-Governor shall, by Proclamation, prescribe and declare the oaths to be taken by voters, the powers and duties of Returning and Deputy Returning Officers, the proceedings to be observed at such election, and the period during which such election may be continued, and such other provisions in respect to such first election as he may think fit.⁽¹¹⁾

Proceedings
at first elec-
tion, etc.,—
how regu-
lated.

19. Every Legislative Assembly shall continue for four years from the date of the return of the writs for returning the same (subject nevertheless to being sooner dissolved by the Lieutenant-Governor), and no longer; and the first Session

Duration of
Legislative
Assembly.

(9) The electoral divisions now number forty-seven.—See "The Electoral Divisions Act," R.S.M. 1954, c. 69.

(10) The qualifications of voters are now fixed by "The Manitoba Election Act," R.S.M. 1954, c. 68.

(11) The mode of conducting elections is now fixed by "The Manitoba Election Act," R.S.M. 1954, c. 68.

thereof shall be called at such time as the Lieutenant-Governor shall appoint.⁽¹²⁾

Sessions at least once a year.

20. There shall be a Session of the Legislature once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in one Session and its first sitting in the next Session.

Certain provisions of B. N. A. Act, 1867, to apply.

21. The following provisions of the British North America Act, 1867, respecting the House of Commons of Canada shall extend and apply to the Legislative Assembly, that is to say:—Provisions relating to the election of a Speaker, originally, and on vacancies,—the duties of the Speaker,—the absence of the Speaker and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to the Legislative Assembly.

Legislation touching schools subject to certain provisions.

22. In and for the Province, the said Legislature may exclusively make Laws in relation to Education, subject and according to the following provisions:—

(1) Nothing in any such Law shall prejudicially affect any right or privilege with respect to Denominational Schools which any class of persons have by Law or practice in the Province at the Union:

(2) An appeal shall lie to the Governor General in Council from any Act or decision of the Legislature of the Province, or of any Provincial Authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to Education:

Power reserved to Parliament.

(3) In case any such Provincial Law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor General in Council or any appeal under this section is not duly executed by the proper Provincial Authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial Laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section.

English and French languages to be used.

23. Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective Records and Journals of those Houses; and either of those languages may be used by any person, or in any Pleading or Process, in or issuing from any Court of Canada established under the British North America Act, 1867, or in or from all or any of the Courts of the Province. The Acts of the Legislature shall be printed and published in both those languages.⁽¹³⁾

(12) See now for duration of Assembly, R.S.M. 1954, c. 141.

(13) By Act of the Provincial Legislature, so far as that Legislature has jurisdiction to enact, the English language alone is to be used in the records and journals of the Legislative Assembly, and in the pleadings and process of the courts. See R.S.M. 1954, c. 187.

24. Inasmuch as the Province is not in debt, the said Province shall be entitled to be paid, and to receive from the Government of Canada, by half-yearly payments in advance, interest at the rate of five per centum per annum on the sum of four hundred and seventy-two thousand and ninety dollars.⁽¹⁴⁾

Interest allowed to the Province on a certain amount of the debt of Canada.

25. The sum of thirty thousand dollars shall be paid yearly by Canada to the Province, for the support of its Government and Legislature, and an annual grant, in aid of the said Province, shall be made, equal to eighty cents per head of the population, estimated at seventeen thousand souls; and such grant of eighty cents per head shall be augmented in proportion to the increase of population, as may be shown by the census and shall be taken thereof in the year one thousand eight hundred and eighty-one, and by each subsequent decennial census, until its population amounts to four hundred thousand souls, at which amount such grant shall remain thereafter, and such sum shall be in full settlement of all future demands on Canada, and shall be paid half-yearly, in advance, to the said Province.⁽¹⁵⁾

Subsidy to the Province for support of Government, and in proportion to its population.

26. Canada will assume and defray the charges for the following services:—

Canada assumes certain expenses.

1. Salary of the Lieutenant-Governor.
2. Salaries and allowances of the Judges of the Superior and District or County Courts.
3. Charges in respect of the Department of the Customs.
4. Postal Department.
5. Protection of Fisheries.
6. Militia.
7. Geological Survey.
8. The Penitentiary.
9. And such further charges as may be incident to, and connected with the services which, by the British North America Act, 1867, appertain to the General Government, and as are or may be allowed to the other Provinces.

General provision.

27. The Customs duties now by Law chargeable in Rupert's Land, shall be continued without increase for the period of three years from and after the passing of this Act, and the proceeds of such duties shall form part of the Consolidated Revenue Fund of Canada.⁽¹⁶⁾

Customs duties.

28. Such provisions of the Customs Laws of Canada (other than such as prescribe the rate of duties payable) as may be from time to time declared by the Governor General in Council to apply to the Province of Manitoba, shall be applicable thereto, and in force therein accordingly.⁽¹⁷⁾

Customs laws.

(14) Superseded by 2 Geo. V, c. 32, s. 4 (Statutes of Canada).

(15) Repealed, R.S.C. 1886, sch. A, p. 2280. See now B.N.A. Act (1907), c. 11, s. 1 and notes to s. 118 of the B.N.A. Act, 1867.

(16) Repealed, R.S.C. 1886, sch. A, p. 2280.

(17) Repealed, R.S.C. 1886, sch. A, p. 2280.

Inland
Revenue
laws and
duties.

29. Such provisions of the Laws of Canada respecting the Inland Revenue, including those fixing the amount of duties, as may be from time to time declared by the Governor General in Council applicable to the said Province, shall apply thereto, and be in force therein accordingly.⁽¹⁸⁾

Ungranted
lands vested
in the Crown
for Do-
minion pur-
poses.

30. All ungranted or waste lands in the Province shall be, from and after the date of the said transfer, vested in the Crown, and administered by the Government of Canada for the purposes of the Dominion, subject to, and except and so far as the same may be affected by, the conditions and stipulations contained in the agreement for the surrender of Rupert's Land by the Hudson's Bay Company to Her Majesty.⁽¹⁹⁾

Provisions
as to
Indian
title.

Grant for
half-breeds.

31. And whereas, it is expedient, towards the extinguishment of the Indian Title to the lands in the Province, to appropriate a portion of such ungranted lands, to the extent of one million four hundred thousand acres thereof, for the benefit of the families of the half-breed residents, it is hereby enacted, that, under regulations to be from time to time made by the Governor General in Council, the Lieutenant-Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children of the half-breed heads of families residing in the Province at the time of the said transfer to Canada, and the same shall be granted to the said children respectively, in such mode and on such conditions as to settlement and otherwise, as the Governor General in Council may from time to time determine.⁽²⁰⁾

Quieting
titles.

32. For the quieting of titles, and assuring to the settlers in the Province the peaceable possession of the lands now held by them, it is enacted as follows:—

Grants by
H. B. Com-
pany.

1. All grants of land in freehold made by the Hudson's Bay Company up to the eighth day of March, in the year 1869, shall, if required by the owner, be confirmed by grant from the Crown.

The same.

2. All grants of estates less than freehold in land made by the Hudson's Bay Company up to the eighth day of March aforesaid, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

Titles by
occupancy
with per-
mission.

3. All titles by occupancy with the sanction and under the license and authority of the Hudson's Bay Company up to the eighth day of March aforesaid, of land in that part of the Province in which the Indian Title has been extinguished, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

(18) Repealed, R.S.C. 1886, sch. A, p. 2280.

(19) Repealed, R.S.C. 1886, sch. A, p. 2280.

Replaced by R.S.C. 1886, c. 47, s. 3, which also has been repealed. *See* R.S.C. 1906, p. 2941.

For the allowance in lieu of lands *see*, now, 2 Geo. V, c. 32 (D).

(20) Repealed, R.S.C. 1886, sch. A, p. 2280.

4. All persons in peaceable possession of tracts of land at the time of the transfer to Canada, in those parts of the Province in which the Indian Title has not been extinguished, shall have the right of pre-emption of the same, on such terms and conditions as may be determined by the Governor in Council.	By peaceable possession.
5. The Lieutenant-Governor is hereby authorized, under regulations to be made from time to time by the Governor General in Council, to make all such provisions for ascertaining and adjusting, on fair and equitable terms, the rights of Common, and rights of cutting Hay held and enjoyed by the settlers in the Province, and for the commutation of the same by grants of land from the Crown. ⁽²¹⁾	Lieut.-Governor to make provisions under Order in Council.
33. The Governor General in Council shall from time to time settle and appoint the mode and form of Grants of Land from the Crown, and any Order in Council for that purpose when published in the <i>Canada Gazette</i> , shall have the same force and effect as if it were a portion of this Act. ⁽²²⁾	Governor in Council to appoint form, etc., of grants.
34. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company, as contained in the conditions under which that Company surrendered Rupert's Land to Her Majesty. ⁽²³⁾	Rights of H. B. Company not affected.
35. And with respect to such portion of Rupert's Land and the North-Western Territory, as is not included in the Province of Manitoba, it is hereby enacted, that the Lieutenant-Governor of the said Province shall be appointed, by Commission under the Great Seal of Canada, to be the Lieutenant-Governor of the same, under the name of the North-West Territories, and subject to the provisions of the Act in the next section mentioned. ⁽²⁴⁾	Lieut.-Governor to govern N. W. Territory for Canada.
36. Except as hereinbefore is enacted and provided, the Act of the Parliament of Canada, passed in the now last Session thereof, and entitled "An Act for the Temporary Government of Rupert's Land, and the North-Western Territory when united with Canada," is hereby re-enacted, extended and continued in force until the first day of January, 1871, and until the end of the Session of Parliament then next succeeding. ⁽²⁵⁾	Act 32-33 V., c. 3, extended and continued.

(21) Repealed, R.S.C. 1886, sch. A, p. 2280.

Provisions of this section, except s.-s. 5, embodied in R.S.C. 1906, c. 99, ss. 21, 22.

(22) Repealed, R.S.C. 1886, sch. A, p. 2280.

(23) Repealed, R.S.C. 1886, sch. A, p. 2280.

(24) Repealed, 38 Vict., c. 39, s. 76.

(25) Repealed, R.S.C. 1886, sch. A, p. 2280.

MEMORANDUM ON LAW IN FEDERAL MATTERS IN MANITOBA PRIOR TO 1888

(by Mr. J. B. Coyne, K.C. of the Bar of Manitoba.)

When Rupertsland and the North West Territories were admitted into Canada the Parliament of Canada was given power to make laws for the area so admitted (sec. 5, Imp. Act, p. 69). By the North West Territories Act, 1869, the Canadian Parliament continued all laws then in effect so far as consistent with the B.N.A. Act, etc. (sec. 5, p. 178). The Manitoba Act (p. 171) contained no specific provision continuing these laws but by that Act all provisions of the B.N.A. Act applicable to *all* the uniting provinces were made applicable to Manitoba (sec. 2, p. 180). By sec. 129 of the B.N.A. Act all laws of the uniting provinces at the time of the Union were continued in effect. These provisions were interpreted as meaning that the laws of the area embraced in Manitoba as they stood on July 15th, 1870, the date of Manitoba's entry into the Union, continued in Manitoba.

The further question was what laws were in effect on July 15th, 1870, in the area embraced in Manitoba.

The law of England as of 1670, the date of the Charter of the Hudson's Bay Company, prevailed from the Company's inception in its Territory. But by the Charter and the action of the Company thereunder, the Council of Assiniboia had power to make laws for the Territory. In 1862 the Council enacted that "In place of the laws of England as of the date of the Hudson's Bay Company's Charter, the laws of England of Her Majesty's accession, so far as they may be applicable to the colony, shall regulate the proceedings of the General Court of Assiniboia". On January 7th, 1864, this was amended to embrace English laws as of the latter date.

Two cases in the King's Bench of Manitoba, one by the full Court of King's Bench and the other by Taylor, J., held that the English law as it stood on January 7th, 1864, was the law of Assiniboia.

But in December, 1887, in *Sinclair v. Mulligan*, 5 M.R. 17, a different view was expressed in the Full Court of Manitoba, although this was clearly unnecessary for the decision of the case. The trial judge, Killam J., gave his opinion that only the law of England relating to practice and procedure was introduced in 1862 and 1864 into the law of Assiniboia and consequently that the English law of 1670 was the substantive law in Rupertsland and the North West Territories at the time of their becoming part of Canada, and therefore in Manitoba. Taylor, C. J., agreed, although Dubuc, J., the other judge sitting with him in the Full Court, doubted.

The Legislature of Manitoba had enacted that the laws of England as of the 15th July, 1870, so far as the same can be made applicable to Manitoba, should be the law of Manitoba in all matters within the jurisdiction of the legislature. (*See* statutes of 1874, 38 Victoria, c. 12.5.1).

In view of the uncertainty caused by *Sinclair v. Mulligan* in regard to the law governing matters within the legislative jurisdiction of the Dominion, Parliament passed the Act of 51 Victoria, Chapter 53, comprising what is now Sec. 4 of the Manitoba Supplementary Provision Act, making the law of England as of July 15th, 1870, applicable in all matters within the jurisdiction of the Parliament of Canada. (*See: Walker v. Walker*, 1918, 2 W.W.R. 233, 28 M.R. 495, Court of Appeal; 1919, 2 W.R. 935, A.C. 947, 88 L.J.P.C. 156.) Thereby English law of that date so far as it could be applied to conditions in Manitoba, became the law of Manitoba in both fields, provincial and federal.

R.S., 1927, CHAPTER 124

SHORT TITLE

Definitions.

"Commissioners."

"Minister."

"Province."

PART I

Allotment
of 150,000
acres for a
university.

Laws in
force in
Manitoba.

(1) This Act is a consolidation of the following Acts:—

39 Vict., c. 20 (Roads and Road Allowances in Manitoba), 1876.

51 Vict., c. 33 (Application of certain laws to Manitoba), 1888.

58-59 Vict., c. 30 (Roads and Road Allowances in Manitoba), 1895.

affected by any Act of the Parliament of Great Britain applicable to the Province, or of the Parliament of Canada. R.S., c. 99, s. 6⁽²⁾

PART II

ROADS AND ROAD ALLOWANCES

5. All road allowances in townships surveyed and subdivided, and all road allowances set out on base and meridian lines surveyed, in the Province shall be vested in the Crown in the right of the Province; and it is hereby declared that all road allowances in townships heretofore surveyed and subdivided, and all road allowances set out on base and meridian lines heretofore surveyed in the Province, shall be deemed to have become the property of the Crown in the right of the Province upon the confirmation of the survey. R.S., c. 99, s. 7.

Certain road allowances the property of the Province.

6. On the survey and subdivision of any township within the Province, and the approval of such survey and subdivision of any township, the fact shall be notified to the Lieutenant-Governor by the Minister, and by virtue of such notification all section road allowances in such township shall become the property of the Province. R.S., c. 99, s. 8.

Section road allowances in townships belong to the Province.

7. On the Government of Canada receiving notice from the Government of the Province of the particular thoroughfares or public travelled roads or trails in the Province which existed as such on the fifteenth day of July, one thousand eight hundred and seventy, and which the Government of the Province desires to have transferred to the Province, the Governor in Council may pass an order directing the same to be forthwith surveyed by a Dominion land surveyor, and thereafter may transfer each such thoroughfare, public travelled road or trail, according to the plan and description thereof, to the Province, subject to any rights acquired under patents for any lands crossed thereby, issued previously to the receipt of such notice: Provided that except those public thoroughfares in the Province which are designated as great highways by the first section of the Act of the legislature of Manitoba, passed in the year one thousand eight hundred and seventy-one, chapter thirteen, the width of which shall be two chains, no such thoroughfare, public travelled

Roads existing on 15th July, 1870, may be transferred to the Province.

(2) The Manitoba Legislature had introduced English law as of July 15th, 1870 in respect of matters within the jurisdiction of the Legislature "so far as the same can be made applicable" to such matters in the Province.

A decision of the Manitoba Court in December, 1887 left some uncertainty whether English law as of 1670 or 1864 was the law applicable in the area of that province before the Union and therefore uncertainty as to the English law applicable in Manitoba, in respect of matters within the jurisdiction of the Parliament of Canada. Parliament responded in 1888 by passing sec. 4 above. (*See Walker v. Walker*, 1918, 2 W.W.R. 233, 28 M.R. 495 (Court of Appeal); 1919, 2 W.W.R. 935, A.C. 947, 88 L.J.P.C. 156). *See also*: Memorandum of Mr. J. B. Coyne on the two preceding pages.

road or trail as hereinbefore mentioned, transferred to the Province, shall be held to have a greater width than one and one-half chains, or ninety-nine feet. R.S., c. 99, s. 9.

Roads in
the outer
two miles.

8. The Minister shall cause roads to be laid out, in the survey of the outer two miles, known as the hay privilege, granted or proposed to be granted to the owners of the front lots in the old parishes, as follows:—

In rear and
between
certain
farms.

(a) A road one chain and fifty links wide in rear of the farms fronting on the Red and Assiniboine rivers, and between the said farms and the corresponding lots in the outer two miles or hay privilege before mentioned;

Between
the outer
two miles
and sections
bounding
thereon.

(b) A road one chain and fifty links wide in rear of the lots contained in the outer two miles or hay privilege before mentioned, and between them and the sections, or legal subdivisions thereof, bounding the same, except in cases where the said rear boundary of the said lots proves to be a regular section line in the township survey;

Between
lots in
outer two
miles.

(c) Roads, each one chain in width, at convenient distances, say every two miles or thereabouts, between lots in the said outer two miles, and running from the front to the rear thereof.

Where to
be laid out.

2. The roads provided for in the last foregoing paragraph shall be laid out between such lots as the Minister indicates with that view, and shall be taken half off each of such lots, or the whole width off one of such lots, in the discretion of the Minister.

Compensa-
tion for
lands.

3. The persons to whom such lots have been granted, or to whom it is proposed to grant such lots, may be compensated by the Minister for the quantity of land respectively contributed by them to any such road, by the issue of land scrip to them at the rate of one dollar and fifty cents for each acre of land so contributed. R.S., c. 99, s. 10.

Transfer
by Governor
in Council.

9. The Governor in Council may, on the report of the Minister, transfer to the Crown in the right of the Province

(a) the several roads provided for by the last preceding section;

(b) all road allowances around, adjoining, or leading to park lots or portions of sections within the outer two miles of any parish in the Province, as such road allowances are shown on the plan of the Dominion Government survey of such outer two miles;

(c) all road allowances between lots in the inner two miles of any parish in the Province, as such road allowances are shown on the plan of the Dominion Government survey of such inner two miles. R.S., c. 99, s. 11.

10. The unpatented land forming part of any road transferred to the Crown in the right of the Province by or under this Part, or declared by this Part to be the property of the Crown in the right of the Province shall be vested in the Crown as aforesaid. Land vested in Province.

2. No such road shall be closed up or its direction varied, or any part of the land occupied by it sold or otherwise alienated, without the consent of the Governor in Council: Provided that in the case of any such road situate within the limits of an organized municipality within the Province the consent of the Lieutenant-Governor in Council shall alone be necessary. R.S., c. 99, s. 12. Road not to be closed or altered without consent of Governor in Council.

11. The Lieutenant-Governor of Manitoba in Council may at any time, with the consent of the Governor in Council, where it is deemed advisable to do so for the purposes of settlement and colonization, direct roads to be opened through any unpatented lands, whether occupied or not, and whether such lands have been homesteaded, pre-empted, set apart or reserved for the benefit or use of any person; and the Governor in Council may thereafter, on the report of the Minister, transfer such roads to the Crown in the right of the Province. R.S., c. 99, s. 13. Opening of colonization roads.

12. Until the survey and transfer to the Crown in the right of the Province of any road, road allowance, trail, highway or great highway, the Attorney General of Manitoba may take such proceedings as are necessary to keep open any road, trail, road allowance, highway or great highway heretofore used or opened. R.S., c. 99, s. 14. Keeping open roads heretofore opened.

13. Except as hereinafter provided, upon the transfer to the Crown in the right of the Province of any road, trail, road allowance, highway or great highway, under this Part, the boundaries and lines thereof, as shown on the plan of the Dominion Government survey thereof, shall thereafter be the true boundaries and lines, until varied under the provisions of this Part. R.S., c. 99, s. 15. Boundaries of roads transferred.

14. All roads, trails, road allowances, highways or great highways of any of the classes referred to in this Part, which are shown on any sectional plan of the city of Winnipeg which has been prepared and confirmed by the Lieutenant-Governor of Manitoba in Council under chapter one hundred and forty-two of the Revised Statutes of Manitoba 1891, are hereby transferred to and vested in the Crown in the right of the Province. Certain roads in Winnipeg transferred to the Province.

2. The boundaries and lines of all such roads, trails, road allowances, highways and great highways, as such boundaries and lines are shown on any such sectional plan, are hereby Boundaries of such roads.

declared to be the true boundaries thereof, whether or not they are the true boundaries and lines according to any Dominion Government survey thereof. R.S., c. 99, s. 16.

Certain
other roads
in Winnipeg
may be
transferred
to the
Province.

15. The Governor in Council may, on the report of the Minister, transfer to the Crown in the right of the Province all such roads, trails, road allowances, highways and great highways as are referred to in the last preceding section, and which are shown on any sectional plan of the city of Winnipeg prepared and confirmed by the Lieutenant-Governor of Manitoba in Council under chapter one hundred and forty-two of the Revised Statutes of Manitoba 1891.

Declaration
as to
boundaries.

2. The Governor in Council may declare the boundaries and lines of any such roads, trails, road allowances, highways and great highways, as such boundaries and lines are shown on any such sectional plan, to be the true boundaries and lines, whether or not they are the true boundaries and lines according to any Dominion Government survey thereof. R.S., c. 99, s. 17.

Certain
roads to be
closed.

16. Upon the transfer to the Crown in the right of the Province taking place under either of the last two preceding sections, all roads, trails, road allowances, highways and great highways provided for by this Part, within the limits covered by any such sectional plan, except such roads, trails, road allowances, highways and great highways as are shown on such sectional plans, shall be and remain closed. R.S., c. 99, s. 18.

Plan marked
7a in the
Land Titles
Office
approved.

Boundaries
confirmed.

17. The sectional plan numbered 7a, filed in the Land Titles Office of the district of Winnipeg, on the twenty-seventh day of June, one thousand eight hundred and ninety-nine, as number five hundred and fifty-nine, is approved, and the boundaries and lines of all roads, trails, road allowances, highways and great highways, as such boundaries and lines are shown on the said plan, are hereby declared to be the true boundaries thereof, whether or not they are the true boundaries and lines according to any Dominion Government survey thereof. R.S., c. 99, s. 19.

Saving.

18. Nothing in this Part shall affect

- (a) any right claimed or set up in any action or proceeding pending in any court of competent jurisdiction on the twenty-second day of July, one thousand eight hundred and ninety-five, or any right theretofore adjudicated upon in an action or proceeding in any such court; or
- (b) sectional plan number seven of the city of Winnipeg, or any road, trail, road allowance, highway, or great highway shown on that plan, or any original trail, road allowance, highway or great highway within the area shown thereon. R.S., c. 99, s. 20.

PART III

THE QUIETING OF TITLES

19. If required by the owner, any grant of an estate in land in the Province by the Hudson's Bay Company, up to the eighth day of March, one thousand eight hundred and sixty-nine, shall, if such grant is of an estate less than freehold, be converted by grant from the Crown into an estate in freehold, and, if the grant is of an estate in freehold, it shall be in like manner confirmed. R.S., c. 99, s. 21.

Grants confirmed.

20. Every person who satisfactorily establishes that he, by himself or his servant, tenant or agent, was, or, that those through whom he claims, by themselves, their servants, tenants or agents, were in undisturbed occupancy and in actual peaceable possession of any lands within the Province, on the fifteenth day of July, one thousand eight hundred and seventy, and who made application for letters patent therefor before the first day of May, one thousand eight hundred and eighty-six, shall be entitled to receive such letters patent granting the said land absolutely to him in fee simple: Provided that any such claim to a grant from the Crown is barred as fully and effectually as if it had not been made, if the claimant in respect thereof did not establish his claim before the first day of November, one thousand eight hundred and eighty-six, or, if the claim had not before the last mentioned date been referred to the Commissioners under the following provisions of this Part. R.S., c. 99, s. 22.

Persons in possession.

Entitled to grant.

Time for claims limited.

21. The Governor in Council may, from time to time, issue a commission under the Great Seal, to such person or persons as he sees fit, empowering him or them, or a majority of them, to investigate such cases as are referred to them by the Minister in respect of

Commission may be appointed to consider certain cases.

(a) all such cases as arise under the provisions of this Act respecting grants made by the Hudson's Bay Company;

(b) all cases of adverse or conflicting claims between different persons to lands mentioned in the last preceding section, in respect of which also it has been previously established to the satisfaction of the Minister that there has been undisturbed occupancy, as required in the said section;

and to report the evidence in respect of such claims, and who is the person to whom, in their opinion, the patent ought to issue for the lands to which the claims respectively relate. R.S., c. 99, s. 23.

22. The commissioners may, from time to time, make and establish such rules and forms, with regard to any proceedings to be had before them, and to such notices, papers

Rules and forms may be prescribed.

and other documents as are required in the conduct of such proceedings, as to them appear expedient for the better attainment of the purposes of justice. R.S., c. 99, s. 24.

Sittings of
the com-
missioners.

23. The sittings of the commissioners shall be held at the place of the sittings of the county court in each county court division of the Province, and the time and place of such sittings, together with a list of claims to be heard before them, shall be advertised by the commissioners, for a period of three months, in some newspaper in the Province, and they shall give such other notice of the time and place of such sitting as will best tend to inform persons interested in the same. R.S., c. 99, s. 25.

List to be
prepared.

24. A list of all lands to which this Part applies, or is believed to apply, shall, from time to time, as is necessary, be prepared by the Surveyor General of Dominion lands; and such list shall specify the name or names of the person or persons in possession, together with the number of the section, part of section, range and number of township of which the land consists or forms part, or some other adequate description thereof, and of the township or place in which the same lies.

What it
shall specify.

To be
posted up.

2. Copies of such list shall be put up in some conspicuous place in the office of each of the county courts of the Province, and in the office of the registrar of each registration and land titles district in the Province, during at least three months before the claim comes to be heard before the commissioners.

Certificate
of
compliance.

3. No claims shall be heard by the commissioners unless a certificate of compliance with the provisions of this section from the clerk of such court and from such registrar, is produced to the commissioners.

Fee.

4. For each such certificate the clerk of the county court and such registrar may each demand and receive the sum of fifty cents. R.S., c. 99, s. 26.

Preliminary
proceedings.

Affidavit.

25. The commissioners shall not receive or proceed upon any claim until the person, or some one of the persons, by whom or on whose behalf the claim is made, has made and produced before the commissioners an affidavit or affirmation in writing, signed by him, that to the best of his knowledge and belief the claim is well founded, that he is not aware of any adverse claims, and that there is no other person in possession; or if he is aware of any adverse claim, or that there is any other person in possession, that he has, at least one month before the making of such affidavit or affirmation, caused to be served upon the person making, having, or supposed to have such adverse claim, or who is in possession as aforesaid, a notice in writing of his claim and of his intention to bring the claim before the commissioners at the time appointed by them for hearing the claims of the respective parties.

Notice.

Copy.

2. A copy of such notice shall be affixed to the affidavit or affirmation. R.S., c. 99, s. 27.

26. The claimant or the heir, devisee or assignee of any claimant, may bring any such adverse or conflicting claim before the commissioners, either personally or by agent or attorney, and produce before the commissioners all such documents, proofs and evidence as he has to advance in support of such claim.

How claim
may be
preferred.

2. Such evidence may be given *viva voce* before the commissioners, or by written affidavits or affirmations, sworn or affirmed before any one entitled to administer an oath or affirmation in the place where the same is sworn or affirmed.

Evidence
may be
viva voce or
written.

3. All certificates of the Hudson's Bay Company, or of any chief factor of the Hudson's Bay Company, or of the clerk of the executive council of the Province, or copies certified by them respectively of documents in their custody, shall be received in evidence before the commissioners. R.S., c. 99, s. 28.

Certain
documents
to be
evidence.

27. The commissioners may defer, delay or adjourn the proceedings on any claim brought before them, and may give such further or enlarged time for the production of evidence, or for any other purpose relative to such claim, and for the decision thereon, as they deem expedient for the attainment of the ends of justice. R.S., c. 99, s. 29.

Adjourn-
ment of
proceedings.

28. The commissioners shall be guided in their proceedings and report by the justice and equity of the case, without regard to legal forms or to the strict letter of the law, or legal rules of evidence.

Decision,
how arrived
at.

2. The commissioners shall report their decision to the Minister, who may, if he thinks fit, thereupon cause letters patent to issue, granting the lands in question to the person who has been reported by the commissioners to be entitled to the lands; or otherwise, in his discretion, may submit the decision for the consideration and approval of the Governor in Council. R.S., c. 99, s. 30.

Effect of
decision.

29. The commissioners may summon before them, by summons under the hand of any one of them, the claimant or claimants, or any person interested in the case, or any other person whom they deem it expedient to examine as a witness, or whom they have reason to believe to be in possession of any document by the production of which the ends of justice may be better attained; and may require such claimant or person or such witness, to submit to such oral examination upon oath, or to answer on oath and to sign his answers to interrogatories or cross interrogatories in writing, or to produce such books, papers or documents in his possession, as to the commissioners appears requisite. R.S., c. 99, s. 31.

Witnesses
may be
summoned.

And
required
to give
evidence.

30. The commissioners may cause such interrogatories or cross interrogatories as they deem requisite to be served upon and answered by any such claimant, person or witness, or any witness whose deposition is produced in evidence before

Interroga-
tories.

Commissions to examine witnesses abroad.

them; and may cause commissions to be issued for the examination of any witness not resident in Manitoba, and for requiring such witness to produce such books, papers or other documents as he has in his possession; and may, in their discretion delay the proceedings in the case until such evidence and answers have been adduced and given, and returned with the commission. R.S., c. 99, s. 32.

Attendance may be enforced.

31. The commissioners shall have the same power to enforce the attendance of witnesses, and to compel them to give evidence, as is vested in any court of law in civil cases; but no person or witness shall be compelled to answer any question that he would not be compelled to answer in a court of law in a civil case. R.S., c. 99, s. 33.

When letters patent may issue.

32. No letters patent shall issue on any decision and report of the commissioners until after the expiration of three months from the time when such report was transmitted to and marked as received by the Minister. R.S., c. 99, s. 34.

Re-hearing.

33. If, before the expiration of such three months, the commissioners, or a quorum or majority of them, find reason to believe that such decision and report were obtained by surprise or erroneously made in any respect, and that justice requires that the issuing of the letters patent should be stayed, the commissioners, or a majority of them, although it is not then the regular period of their sitting, may report accordingly to the Minister, and the issuing of the letters patent shall thereupon be stayed until the commissioners again report upon the case; and the commissioners may re-hear the case, or admit any new claim, and may receive or insist upon any new evidence, as to them appears expedient to enable them to do justice in the case; and they may thereafter decide and report thereon as if no prior report had been made, and with like effect. R.S., c. 99, s. 35.

Right to any other procedure not affected.

34. Nothing in this Part contained shall limit the right of the Minister to investigate, or cause to be otherwise investigated than as hereinbefore mentioned, such adverse or conflicting claims as aforesaid, and to cause letters patent to issue therefor to the person appearing to him to be entitled thereto. R.S., c. 99, s. 36.

THE ALBERTA ACT⁽¹⁾

4-5 EDWARD VII, CHAPTER 3

An Act to establish and provide for the Government of the Province of Alberta

[Assented to 20th July, 1905.]

WHEREAS in and by the British North America Act, 1871, being chapter 28 of the Acts of the Parliament of the United Kingdom passed in the session thereof held in the 34th and 35th years of the reign of Her late Majesty Queen Victoria, it is enacted that the Parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such province, and for its representation in the said Parliament of Canada; Preamble.

And whereas it is expedient to establish as a province the territory hereinafter described, and to make provision for the government thereof and the representation thereof in the Parliament of Canada: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as the Alberta Act.⁽²⁾ Short title.

2. The territory comprised within the following boundaries, that is to say,—commencing at the intersection of the international boundary dividing Canada from the United States of America by the fourth meridian in the system of Dominion land surveys; thence westerly along the said international boundary to the eastern boundary of the province of British Columbia; thence northerly along the said eastern boundary of the province of British Columbia to the northeast corner of the said province; thence easterly along the parallel of the sixtieth degree of north latitude to the fourth meridian in the Province of Alberta formed; its boundaries.

(1) This is the Constitutional Act of Alberta. Alberta like Manitoba and Saskatchewan was carved out of Rupert's Land and the Northwest Territories. The provisions in this Act are similar to those in the Orders in Council. Alberta, through this Act is made subject to the provisions of the B.N.A. Act, 1867, which applies to it as if it had been one of the original provinces. For "The North-West Territories Act," chapter 50 of the Revised Statutes of Canada, 1886, as amended up to the first day of September, 1905, the date of the coming into force of the Alberta Act, see Revised Statutes of Alberta, 1922, Vol. IV, p. 2849.

(2) This Act has not been consolidated or repealed by the Statute Revisions of 1906, 1927 or 1952.

system of Dominion lands surveys as the same may be hereafter defined in accordance with the said system; thence southerly along the said fourth meridian to the point of commencement,—is hereby established as a province of the Dominion of Canada, to be called and known as the province of Alberta.⁽³⁾

B.N.A. Acts
1867 to 1886,
to apply.

3. The provisions of the British North America Acts, 1867 to 1886, shall apply to the province of Alberta in the same way and to the like extent as they apply to the provinces heretofore comprised in the Dominion, as if the said province of Alberta had been one of the provinces originally united, except in so far as varied by this Act and except such provisions as are in terms made, or by reasonable intendment, may be held to be specially applicable to or only to affect one or more and not the whole of the said provinces.

Representa-
tion in the
Senate.

4. The said province shall be represented in the Senate of Canada by four members: Provided that such representation may, after the completion of the next decennial census, be from time to time increased to six by the Parliament of Canada.⁽⁴⁾

Representa-
tion in the
House of
Commons.

5. The said province and the province of Saskatchewan shall, until the termination of the Parliament of Canada existing at the time of the first readjustment hereinafter provided for, continue to be represented in the House of Commons as provided by chapter 60 of the statutes of 1903, each of the electoral districts defined in that part of the schedule to the said Act which relates to the Northwest Territories, whether such district is wholly in one of the said provinces, or partly in one and partly in the other of them, being represented by one member.⁽⁵⁾

Readjust-
ment after
next quin-
quennial
census.

6. Upon the completion of the next quinquennial census for the said province, the representation thereof shall forthwith be readjusted by the Parliament of Canada in such manner that there shall be assigned to the said province such a number of members as will bear the same proportion to the number of its population ascertained at such quinquennial census as the number sixty-five bears to the number of the population of Quebec as ascertained at the then last decennial census; and in the computation of the number of members for the said province a fractional part not exceeding one-half of the whole number requisite for entitling the province to a member shall be disregarded, and a fractional part exceeding one-half of that

(3) See Alberta-British Columbia Boundary Act, 1932, c. 5 (Canada) and also The Alberta British Columbia Boundary Act, c. 6 of the statutes of 1931, of Alberta, and the Alberta-Saskatchewan Boundary Act, c. 96 of the statutes of 1939 of Alberta. See also the *Alberta-British Columbia Boundary Act, 1955*, c. 24 of the Statutes of Canada, 1955.

(4) Alberta, like the three other western provinces, has now six senators. See *ante*, s. 1 of the B.N.A. Act, 1915. [5-6 Geo. V, c. 45.]

(5) According to The Representation Act, (R.S.C. 1952, c. 334) the representation of Alberta is fixed at seventeen.

number shall be deemed equivalent to the whole number, and such readjustment shall take effect upon the termination of the Parliament then existing.

2. The representation of the said province shall thereafter be readjusted from time to time according to the provisions of section 51 of the British North America Act, 1867.⁽⁶⁾

Subsequent
readjust-
ments.

7. Until the Parliament of Canada otherwise provides, the qualifications of voters for the election of members of the House of Commons and the proceedings at and in connection with elections of such members shall, *mutatis mutandis*, be those prescribed by law at the time this Act comes into force with respect of such elections in the Northwest Territories.

Election of
members
House of
Commons.

8. The Executive Council of the said province shall be composed of such persons, under such designations, as the Lieutenant-Governor from time to time thinks fit.

Executive
Council.

9. Unless and until the Lieutenant-Governor in Council of the said province otherwise directs, by proclamation under the Great Seal, the seat of government of the said province shall be at Edmonton.

Seat of
Government.

10. All powers, authorities and functions which under any law were before the coming into force of this Act vested in or exercisable by the Lieutenant-Governor of the Northwest Territories, with the advice, or with the advice and consent, of the Executive Council thereof, or in conjunction with that Council or with any member or members thereof, or by the said Lieutenant-Governor individually, shall, so far as they are capable of being exercised after the coming into force of this Act in relation to the government of the said province, be vested in and shall or may be exercised by the Lieutenant-Governor of the said province, with the advice or with the advice and consent of, or in conjunction with, the Executive Council of the said province or any member or members thereof, or by the Lieutenant-Governor individually, as the case requires, subject nevertheless to be abolished or altered by the Legislature of the said province.

Powers of
Lieutenant-
Governor
and Council.

11. The Lieutenant-Governor in Council shall, as soon as may be after this Act comes into force, adopt and provide a Great Seal of the said province, and may, from time to time, change such seal.

Great Seal.

12. There shall be a Legislature for the said province consisting of the Lieutenant-Governor and one House to be styled the Legislative Assembly of Alberta.

Legislature.

(6) Representation in the House of Commons is governed by s. 51 of the B.N.A. Act, 1867. See also s. 51A amendment of the B.N.A. Act, 1915.

Legislative
Assembly.

13. Until the said Legislature otherwise provides, the Legislative Assembly shall be composed of twenty-five members, to be elected to represent the electoral divisions defined in the schedule to this Act.⁽⁷⁾

Election of
members of
Assembly.

14. Until the said Legislature otherwise determines, all the provisions of the law with regard to the constitution of the Legislative Assembly of the Northwest Territories and the election of members thereof shall apply, *mutatis mutandis*, to the Legislative Assembly of the said province and the elections of members thereof respectively.⁽⁸⁾

Writs for
first
election.

15. The writs for the election of the members of the first Legislative Assembly of the said province shall be issued by the Lieutenant-Governor and made returnable within six months after this Act comes into force.

Laws, courts
and officers
continued.

16. All laws and all orders and regulations made thereunder, so far as they are not inconsistent with anything contained in this Act, or as to which this Act contains no provision intended as a substitute therefor, and all courts of civil and criminal jurisdiction, and all commissions, powers, authorities and functions, and all officers and functionaries, judicial, administrative and ministerial, existing immediately before the coming into force of this Act in the territory hereby established as the province of Alberta, shall continue in the said province as if this Act and The Saskatchewan Act had not been passed; subject, nevertheless, except with respect to such as are enacted by or existing under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland, to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the said province, according to the authority of the Parliament, or of the said Legislature: Provided that all powers, authorities and functions which, under any law, order or regulation were, before the coming into force of this Act, vested in or exercisable by any public officer or functionary of the Northwest Territories shall be vested in and exercisable in and for the said province by like public officers and functionaries of the said province when appointed by competent authority.

Proviso.

Province
may abolish
Supreme
Court of
N.W.T.

2. The Legislature of the province may, for all purposes affecting or extending to the said province, abolish the Supreme Court of the Northwest Territories, and the offices, both judicial and ministerial, thereof, and the jurisdiction, powers and

(7) By section 2 of The Legislative Assembly Act, c. 3 of the Revised Statutes of Alberta, 1922, the Legislative Assembly was declared to be composed of 61 members. This section was amended by 1924, c. 35; 1930, c. 14 and 1939, c. 94, 1955, c. 62. The Alberta Legislative Assembly now consists of 44 Constituencies and 61 members. Each electoral division returned one member except cities of Edmonton and Calgary which return 7 and 6 members respectively. See *The Legislative Assembly Act*, R.S.A., c. 174.

(8) The qualifications of voters are now fixed by The Alberta Election Act, R.S.A., c. 97.

authority belonging or incident to the said court: Provided that, if, upon such abolition, the Legislature constitutes a superior court of criminal jurisdiction, the procedure in criminal matters then obtaining in respect of the Supreme Court of the Northwest Territories shall, until otherwise provided by competent authority, continue to apply to such superior court, and that the Governor in Council may at any time and from time to time declare all or any part of such procedure to be inapplicable to such superior court. Proviso.

3. All societies or associations incorporated by or under the authority of the Legislature of the Northwest Territories existing at the time of the coming into force of this Act which include within their objects the regulation of the practice of or the right to practise any profession or trade in the Northwest Territories, such as the legal or the medical profession, dentistry, pharmaceutical chemistry and the like, shall continue, subject, however, to be dissolved and abolished by order of the Governor in Council, and each of such societies shall have power to arrange for and effect the payment of its debts and liabilities, and the division, disposition or transfer of its property. As to certain corporations in N.W.T.

4. Every joint-stock company lawfully incorporated by or under the authority of any ordinance of the Northwest Territories shall be subject to the legislative authority of the province of Alberta if As to joint stock companies.

- (a) the head office or the registered office of such company is at the time of the coming into force of this Act situate in the province of Alberta; and
- (b) by the powers and objects of such company are such as might be conferred by the Legislature of the said province and not expressly authorized to be executed in any part of the Northwest Territories beyond the limits of the said province.⁽⁹⁾

17. Section 93 of The British North America Act, 1867, shall apply to the said province, with the substitution for paragraph (1) of the said section 93, of the following paragraph: Education.

"1. Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the

(9) The Dominion statute, 1886, 49 Vict., c. 25, s. 3, amending the North West Territories Act and reproduced in the above Act, R.S.C. 1886, c. 50, s. 11, put in force in the Territories the laws of England, civil and criminal, as of July 15th, 1870 "so far as the same are applicable to the Territories," and not repealed, altered or affected by subsequent appropriate legislation and The Alberta Act continued the laws in effect at the time of its establishment. (Board v. Board, 1918, 2 W.W.R. 633, 13 Alt. L.R. 362; 1919, 2 W.W.R. 940, A.C. 95, 88 L.J.P.C. 165).

Northwest Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.”

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29 or any Act passed in amendment thereof, or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression “by law” is employed in paragraph 3 of the said section 93, it shall be held to mean the law as set out in the said chapter 29 and 30, and where the expression “at the Union” is employed, in the said paragraph 3, it shall be held to mean the date at which this Act comes into force.

Subsidy to
province.

18. The following amounts shall be allowed as an annual subsidy to the province of Alberta and shall be paid by the Government of Canada, by half-yearly instalments in advance, to the said province, that is to say:

For gov-
ernment.

(a) for the support of the Government and Legislature, fifty thousand dollars;

In propor-
tion to
population.

(b) on an estimated population of two hundred and fifty thousand, at eighty cents per head two hundred thousand dollars, subject to be increased as hereinafter mentioned, that is to say:—a census of the said province shall be taken in every fifth year, reckoning from the general census of one thousand nine hundred and one, and an approximate estimate of the population shall be made at equal intervals of time between each quinquennial and decennial census; and whenever the population, by any such census or estimate, exceeds two hundred and fifty thousand, which shall be the minimum on which the said allowance shall be calculated, the amount of the said allowance shall be increased accordingly, and so on until the population has reached eight hundred thousand souls.⁽¹⁰⁾

Annual
payment
to province.

19. Inasmuch as the said province is not in debt, it shall be entitled to be paid and to receive from the Government of Canada, by half-yearly payments in advance, an annual sum of four hundred and five thousand three hundred and seventy-five dollars, being the equivalent of interest at the rate of five per cent per annum on the sum of eight million one hundred and seven thousand five hundred dollars.

Compensa-
tion to
province for
public lands.

20. Inasmuch as the said province will not have the public land as a source of revenue, there shall be paid by Canada to the province by half-yearly payments, in advance, an annual

(10) See B.N.A. Act (1907), c. 11, s. 1 and notes to s. 118 of the B.N.A. Act, 1867.

sum based upon the population of the province as from time to time ascertained by the quinquennial census thereof, as follows:

The population of the said province being assumed to be at present two hundred and fifty thousand, the sum payable until such population reaches four hundred thousand, shall be three hundred and seventy-five thousand dollars;

Thereafter, until such population reaches eight hundred thousand, the sum payable shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

2. As an additional allowance in lieu of public lands, there shall be paid by Canada to the province annually by half-yearly payments, in advance, for five years from the time this Act comes into force, to provide for the construction of necessary public buildings, the sum of ninety-three thousand seven hundred and fifty dollars.

Further
compensa-
tion.

21. All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the province under The Northwest Irrigation Act, 1898, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said province with the substitution therein of the said province for the Northwest Territories.

Property in
lands, etc.

22. All properties and assets of the Northwest Territories shall be divided equally between the said province and the province of Saskatchewan, and the two provinces shall be jointly and equally responsible for all debts and liabilities of the Northwest Territories: Provided that, if any difference arises as to the division and adjustment of such properties, assets, debts and liabilities, such differences shall be referred to the arbitrament of three arbitrators, one of whom shall be chosen by the Lieutenant-Governor in Council of each province, and the third by the Governor in Council. The selection of such arbitrators shall not be made until the Legislatures of the provinces have met, and the arbitrator chosen by Canada shall not be resident of either province.

Division of
assets and
liabilities
between
Saskatche-
wan and
Alberta.

Arbitration.

23. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Rupert's Land to the Crown.

Rights of
H. B. Co.

Provision
as to
C.P.R. Co.

24. The powers hereby granted to the said province shall be exercised subject to the provisions of section 16 of the contract set forth in the schedule to chapter 1 of the statutes of 1881, being an Act respecting the Canadian Pacific Railway Company.

Commence-
ment of Act.

25. This Act shall come into force on the first day of September, one thousand nine hundred and five.

SCHEDULE

(Section 13)

The province of Alberta shall be divided into twenty-five electoral divisions which shall respectively comprise and consist of the parts and portions of the province hereinafter described.

In the following descriptions where "meridians between ranges" and "boundaries of townships" or "boundaries of sections" are referred to as the boundaries of electoral divisions, these expressions mean the meridians, boundaries of townships or boundaries of sections, as the case may be, in accordance with the Dominion Lands system of surveys, and include the extension thereof in accordance with the said system.

Names and Descriptions of Divisions

(1) The electoral division of Medicine Hat, bounded as follows:

Commencing at the intersection of the eastern boundary of the said province of Alberta by the north boundary of the 38th township; thence westerly along the north boundary of the 38th township to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence southerly along the meridian between the 10th and 11th ranges to the southern boundary of the said province of Alberta; thence easterly along the said southern boundary of the province of Alberta to the south-east corner thereof; thence northerly along the eastern boundary of the said province of Alberta to the point of commencement.

(2) The electoral division of Cardston, bounded as follows:

Commencing at the southern boundary of the said province of Alberta where it is intersected by the meridian between the 10th and 11th ranges, west of the 4th meridian; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 5th township; thence westerly along the north boundary of the 5th township to the St. Mary river; thence along the St. Mary river up stream to the south boundary of the Blood Indian Reserve; thence westerly along the said south boundary of the Blood Indian Reserve to the meridian between the 27th and 28th ranges west of the 4th meridian; thence southerly along the said meridian between the 27th and 28th ranges to the north boundary of the 2nd township; thence westerly along the north boundary of the 2nd townships to the meridian between the 29th and 30th ranges west of the 4th meridian; thence southerly along the said meridian between the 29th and 30th ranges to the southern shore of the Waterton Lakes; thence in a westerly and southerly direction and following the southerly and eastern shores of the said Waterton Lakes to the southern boundary of the said province of Alberta; thence easterly along the said southern boundary of the province of Alberta to the point of commencement.

(3) The electoral division of Lethbridge, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 5th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 14th township; thence westerly along the north boundary of the 14th townships to the Bow river; thence along the Bow river up stream to the north boundary of the 19th township; thence westerly along the north boundary of the 19th townships to the meridian between the 22nd and 23rd ranges, west of the 4th meridian; thence southerly along the said meridian between the 22nd and 23rd ranges to the Belly river; thence along the Belly river down stream to the St. Mary river; thence along the St. Mary river up stream to the north boundary of the 5th township; thence easterly along the north boundary of the 5th townships to the point of commencement.

(4) The electoral division of Macleod, bounded as follows:

Commencing at the south boundary of the Blood Indian Reserve where it is intersected by the St. Mary river; thence along the St. Mary river down stream to the Belly river; thence along the said Belly river up stream to its most northerly intersection with the meridian between the 22nd and 23rd ranges, west of the 4th meridian; thence northerly along the said meridian between the 22nd and 23rd ranges to the north boundary of the 14th township; thence westerly along the north boundary of the 14th townships to the westerly boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th township to the 5th meridian; thence southerly along the said 5th meridian to the north boundary of the 10th township; thence easterly along the said north boundary of the 10th township to the meridian between the 29th and 30th ranges, west of the 4th meridian; thence southerly along the said meridian between the 29th and 30th ranges to the north boundary of the 8th township; thence easterly along the said north boundary of the 8th township to the west boundary of the Peigan Indian Reserve; thence southerly along the said west boundary of the Peigan Indian Reserve to the south-west corner of the said Peigan Indian Reserve; thence easterly along the south boundary of the said Peigan Indian Reserve to the south-east corner of the said Reserve; thence in a straight line south-easterly to the north-east corner of section 14 in the 6th township in the 27th range, west of the 4th meridian; thence along the north boundary of section 13 in the said 6th township and in the 27th range to the meridian between the 26th and 27th ranges west of the 4th meridian; thence southerly along the said meridian between the 26th and 27th ranges to the Belly river; thence along the Belly river up stream to the southern boundary of the said Blood Indian Reserve; thence easterly along the said south boundary of the Blood Indian Reserve to the point of commencement.

(5) The electoral division of Pincher Creek, bounded as follows:

Commencing at the southern boundary of the said province of Alberta, where it is intersected by the eastern shore of the Waterton lakes, thence northerly and easterly and along the said eastern shores and the southern shores of the Waterton lakes to the meridian between the 29th and 30th ranges west of the 4th meridian; thence northerly along the said meridian between the 29th and 30th ranges to the north boundary of the 2nd township; thence easterly along the said north boundary of the 2nd townships to the meridian between the 27th and 28th ranges west of the 4th meridian; thence northerly along the said meridian between the 27th and 28th ranges to the south boundary of the Blood Indian Reserve; thence westerly along the said south boundary of the Blood Indian Reserve to the Belly river; thence along the said Belly River down stream to the meridian between the 26th and 27th ranges

west of the 4th meridian; thence northerly along the said meridian between the 26th and 27th ranges to the northeast corner of section 13 in the 6th township in the said 27th range; thence westerly along the north boundary of the said section 13 to the northeast corner of section 14 in the said 6th township in the 27th range; thence in a straight line north-westerly to the southeast corner of the Peigan Indian Reserve; thence westerly along the south boundary of the said Peigan Indian Reserve to the southwest corner of the said Indian Reserve; to the north boundary of the 8th township; thence westerly along the said north boundary of the 8th townships to the meridian between the 29th and 30th ranges west of the 4th meridian; thence northerly along the said meridian between the 29th and 30th ranges to the north boundary of the 10th township; thence westerly along the said north boundary of the 10th township to the 5th meridian; thence northerly along the said 5th meridian to the north boundary of the 11th township; thence westerly along the said north boundary of the 11th townships to the western boundary of the said province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the southern boundary of the said province of Alberta; thence easterly along the said southern boundary of the province of Alberta to the point of commencement.

(6) The electoral district of Gleichen, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the northern boundary of the 14th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 28th township; thence westerly along the said north boundary of the 28th townships to the meridian between the 2nd and 3rd ranges, west of the 5th meridian; thence southerly along the said meridian between the 2nd and 3rd ranges, to north boundary of the 22nd township; thence easterly along the said north boundary of the 22nd townships to the Bow river; thence along the said Bow river down stream to the north boundary of the 14th township; thence easterly along the said north boundary of the 14th townships to the point of commencement;—excepting and reserving out of the said electoral division the city of Calgary, as incorporated by ordinances of the Northwest Territories.

(7) The electoral division of Calgary City, comprising the city of Calgary as incorporated by ordinance of the Northwest Territories.

(8) The electoral division of Rosebud, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 28th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 33rd township; thence westerly along the said north boundary of the 33rd townships to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the north boundary of the 28th township; thence easterly along the said north boundary of the 28th townships to the point of commencement.

(9) The electoral division of High River, bounded as follows:

Commencing at the meridian between the 22nd and 23rd ranges, west of the 4th meridian, where it is intersected by the north boundary of the 14th township; thence northerly along the said meridian between the 22nd and 23rd ranges to the north boundary of the 19th township; thence easterly along the said north boundary of the 19th townships to the Bow river; thence along the said Bow river up stream to the north boundary of the 22nd township; thence westerly along the said north boundary of the 22nd townships to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the

province of Alberta to the north boundary of the 14th township; thence easterly along the said north boundary of the 14th townships to the point of commencement.

(10) The electoral division of Banff, bounded as follows:

Commencing at the meridian between the 24th and 25th ranges, west of the 5th meridian, where it is intersected by the north boundary of the 22nd township; thence northerly along the said meridian between the 2nd and 3rd ranges to the north boundary of the 28th township; thence westerly along the said north boundary of the 28th township to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the north boundary of the 22nd township; thence easterly along the said north boundary of the 22nd township to the point of commencement.

(11) The electoral division of Innisfail, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 33rd township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of section twenty-four in the 36th township; thence westerly along the section line which bounds on the north the section comprising the most southerly two-thirds of the 36th townships to the Red Deer river, in the 28th range, west of the 4th meridian; thence along the said Red Deer river down stream to the north boundary of section twenty-two, in the 37th township; thence westerly along the section line which bounds on the north the sections comprising the most southerly two-thirds of the 37th township to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the north boundary of the 33rd township; thence easterly along the north boundary of the 33rd township to the point of commencement.

(12) The electoral division of Red Deer, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of section 24, in the 36th township; thence northerly along the said meridian between the 10th and 11th ranges to the said north boundary of the 38th township; thence westerly along the said north boundary of the 38th township to where the said north boundary of the 38th townships is intersected by the Red Deer river in the 26th range, west of the 4th meridian; thence along the said Red Deer river up stream to the Blindman river; thence along the said Blindman river up stream to the north boundary of the 39th township; thence westerly along the said north boundary of the 39th townships to the North Saskatchewan river; thence along the North Saskatchewan river up stream to the section line which bounds on the north the sections comprising the most southerly two-thirds of the 37th township; thence easterly along the said section line which bounds on the north the sections comprising the most southerly two-thirds of the 37th township to the Red Deer river; thence along the Red Deer river up stream to the north boundary of section twenty, in the 36th township; thence easterly along the section line which bounds on the north the sections comprising the most southerly two-thirds of the said 36th townships to the point of commencement.

(13) The electoral division of Vermilion, bounded as follows:

Commencing at the eastern boundary of the province of Alberta where it is intersected by the north boundary of the 38th township; thence northerly along the said eastern boundary of the province of Alberta to the North Saskatchewan river; thence along the North Saskatchewan river up stream to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 54th township;

thence westerly along the said north boundary of the 54th township to the meridian between the 19th and 20th ranges, west of the 4th meridian; thence southerly along the said meridian between the 19th and 20th ranges to the north boundary of section twenty-four, in the 47th township; thence easterly along the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th township to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 38th township; thence easterly along the said north boundary of the 38th township to the point of commencement.

(14) The electoral division of Lacombe, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 38th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 41st township; thence westerly along the said north boundary of the 41st townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 39th township; thence easterly along the said north boundary of the 39th townships to the Blindman river; thence along the said Blindman river down stream to the Red Deer river; thence along the said Red Deer river down stream to the north boundary of the 38th township; thence easterly along the said north boundary of the 38th township to the point of commencement.

(15) The electoral division of Ponoka, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 41st township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 44th township; thence westerly along the north boundary of the 44th townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 41st township; thence easterly along the said north boundary of the 41st townships to the point of commencement.

(16) The electoral division of Wetaskiwin, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 44th township; thence northerly along the said meridian between the 10th and 11th ranges to the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th township; thence westerly along the said section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 44th township; thence easterly along the said north boundary of the 44th townships to the point of commencement.

(17) The electoral division of Leduc, bounded as follows:

Commencing at the meridian between the 19th and 20th ranges, west of the 4th meridian, where it is intersected by the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th townships; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 50th township; thence westerly along the said north boundary of the 50th townships to where the said north boundary of the 50th townships first intersects the North Saskatchewan river; thence along the North Saskatchewan river up stream to the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th township; thence easterly along the said section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th township to the point of commencement.

(18) The electoral division of Strathcona, bounded as follows:

Commencing at the meridian between the 19th and 20th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 50th township; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 53rd township; thence westerly along the said north boundary of the 53rd townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 50th township; thence easterly along the said north boundary of the 50th townships to the point of commencement.

(19) The electoral division of Stonyplain, bounded as follows:

Commencing at the meridian between the 24th and 25th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 53rd township; thence westerly along the said north boundary of the 53rd township to the rear line of lots fronting on the east side of the Sturgeon river in the Saint Albert settlement; thence in a southerly and westerly direction and along the said rear line to Big lake; thence in a westerly direction and along the southerly, westerly and northerly shores of Big lake to the southwest corner of lot D in the Saint Albert settlement, thence westerly and along the southerly limits of lots E, F, G, H and I in the said Saint Albert settlement to the southeast corner on the Indian Reserve Chief Michel Calahoo; thence westerly along the south boundary of the said Indian Reserve to the south-west corner thereof; thence northerly along the west boundary of the said Indian Reserve to the north boundary of the 54th township; thence westerly along the said north boundary of the 54th townships to the 5th meridian; thence northerly along the said 5th meridian to the south boundary of the Indian Reserve Chief Alexander; thence westerly along the south boundary of the Indian Reserve Chief Alexander to the south-west corner of the said reserve; thence northerly along the west boundary of the said Reserve Chief Alexander to the north boundary of the 55th township; thence westerly along the north boundary of the 55th townships to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the section line which forms the north boundary of the sections comprising the most southerly two-thirds of the 37th township; thence easterly along the said section line which forms the north boundary of the sections comprising the most southerly two-thirds of the 37th townships to the North Saskatchewan river; thence along the said North Saskatchewan river down stream to its most northerly intersection with the meridian between the 24th and 25th ranges west of the 4th meridian; thence northerly along the said meridian between the 24th and 25th ranges to the point of commencement.

(20) The electoral division of Edmonton City, comprising the city of Edmonton as incorporated by ordinance of the Northwest Territories.

(21) The electoral division of Victoria, bounded as follows:

Commencing at the 4th meridian where it is intersected by the North Saskatchewan river; thence northerly along the said 4th meridian to the north boundary of the 70th township; thence westerly along the said north boundary of the 70th townships to the meridian between the 10th and 11th ranges west of the 4th meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 58th township; thence westerly along the said north boundary of the 58th townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 53rd township; thence easterly along the said north boundary of the 53rd township to the meridian between the 19th and 20th ranges west of the 4th meridian; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 54th township; thence easterly along

the said north boundary of the 54th townships to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence northerly along the said meridian between the 10th and 11th ranges to the North Saskatchewan river; thence along the said North Saskatchewan river down stream to the point of commencement.

(22) The electoral division of Sturgeon, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 58th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 70th township; thence westerly along the said north boundary of the 70th townships to the meridian between the 24th and 25 ranges, west of the 4th meridian; thence southerly along the said meridian between the 24th and 25th ranges to the North Saskatchewan river; thence along the said North Saskatchewan river down stream to the north boundary of the 58th township; thence easterly along the said north boundary of the 58th townships to the point of commencement. Excepting and reserving out of the said electoral division the city of Edmonton as incorporated by ordinance of the North-west Territories.

(23) The electoral division of Saint Albert, bounded as follows:

Commencing at the meridian between the 24th and 25th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 53rd township; thence northerly along the said meridian between the 24th and 25th ranges west of the 4th meridian to the north boundary of the 70th township; thence westerly along the said north boundary of the 70th townships to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the north boundary of the 55th township; thence easterly along the said north boundary of the 55th township to the Indian Reserve Chief Alexander; thence southerly along the western boundary of the said Indian Reserve Chief Alexander to the south-west corner of the said reserve; thence easterly along the south boundary of the said Indian Reserve Chief Alexander to the 5th meridian; thence southerly along the said 5th meridian to the north boundary of the 54th township; thence easterly along the said north boundary of the 54th township to the west boundary of the Indian Reserve Chief Michel Calahoo; thence southerly along the west boundary of the said Indian Reserve Chief Michel Calahoo to the south-west corner thereof; thence easterly along the south boundary of the said Indian Reserve Chief Michel Calahoo to the south-east corner thereof; thence in an easterly direction and along the southern limit of lots I, H, G, F, and E, in the Saint Albert settlement to the south-west corner of lot D in the said settlement; thence along the westerly and southerly shores of Big Lake in a westerly, southerly and easterly direction to the rear line of lot 55 in the said Saint Albert settlement; thence in an easterly direction and along the rear line of lots fronting on the east side of the Sturgeon River in the said Saint Albert settlement to the north boundary of the 53rd township; thence easterly along the north boundary of the 53rd township to the point of commencement.

(24) The electoral division of Peace River, bounded as follows:

Commencing at the meridian between the 19th and 20th ranges, west of the 5th meridian, where it is intersected by the north boundary of the 70th township; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 80th township; thence easterly along the said north boundary of the 80th townships to the meridian between the 13th and 14th ranges, west of the 5th meridian; thence northerly along the said meridian between the 13th and 14th ranges to the north boundary of the 92nd township; thence easterly along the said north boundary of the 92nd townships to the meridian between the 20th and 21st ranges, west of the 4th meridian; thence northerly along

the said meridian between the 20th and 21st ranges to the northern boundary of the province of Alberta; thence westerly along the said northern boundary of the province of Alberta to the north-west corner of the said province; thence in a southerly direction and along the western boundary of the said province of Alberta to the north boundary of the 70th township; thence easterly along the said north boundary of the 70th townships to the point of commencement.

(25) The electoral division of Athabaska, bounded as follows:

Commencing at the eastern boundary of the province of Alberta where it is intersected by the north boundary of the 70th township; thence northerly along the said eastern boundary of the province of Alberta to the northern boundary of the said province; thence westerly along the said northern boundary of the province of Alberta to the meridian between the 20th and 21st ranges, west of the 4th meridian; thence southerly along the said meridian between the 20th and 21st ranges to the north boundary of the 92nd township; thence westerly along the said north boundary of the 92nd townships to the meridian between the 13th and 14th ranges, west of the 5th meridian; thence southerly along the said meridian between the 13th and 14th ranges, west of the 5th meridian to the north boundary of the 80th township; thence westerly along the said north boundary of the 80th township to the meridian between the 19th and 20th ranges, west of the 5th meridian; thence southerly along the said meridian between the 19th and 20th ranges to the north boundary of the 70th township; thence easterly along the said north boundary of the 70th township to the point of commencement.

THE SASKATCHEWAN ACT⁽¹⁾

4-5 EDWARD VII, CHAPTER 42

An Act to establish and provide for the Government of the Province of Saskatchewan

[Assented to 20th July, 1905.]

Preamble.

WHEREAS in and by the *British North America Act*, 1871, being chapter 28 of the Acts of the Parliament of the United Kingdom passed in the session thereof held in the 34th and 35th years of the reign of her late Majesty Queen Victoria, it is enacted that the Parliament of Canada may from time to time establish new provinces in any territory forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such province and for its representation in the said Parliament of Canada;

And whereas it is expedient to establish as a province the territory hereinafter described, and to make provisions for the government thereof and the representation thereof in the Parliament of Canada: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as the Saskatchewan Act.⁽²⁾

Province
of Sas-
katchewan
formed; its
boundaries.

2. The territory comprised within the following boundaries, that is to say,—commencing at the intersection of the international boundary dividing Canada from the United States of America by the west boundary of the province of Manitoba, thence northerly along the said west boundary of the province of Manitoba to the northwest corner of the said province of Manitoba; thence continuing northerly along the centre of the road allowance between the twenty-ninth and thirtieth ranges west of the principal meridian in the system of Dominion lands

(1) This is the Constitutional Act of Saskatchewan. Saskatchewan like Manitoba and Alberta was carved out of Rupert's Land and the North West Territories. The provisions in this Act are similar to those in the Orders in Council. Saskatchewan, through this Act is made subject to the provisions of the B.N.A. Act, 1867, which applies to it as if it had been one of the original provinces. For "The North West Territories Act," c. 50 of the Revised Statutes of Canada, 1886, as amended up to the first day of September, 1905, the date of the coming into force of the Saskatchewan Act, see Revised Statutes of Saskatchewan, 1940, Vol. IV, p. 4547.

(2) This Act has not been consolidated or repealed by the Statute Revision of 1906, 1927 or 1952.

surveys, as the said road allowance may hereafter be defined in accordance with the said system, to the second meridian in the said system of Dominion lands surveys, as the same may hereafter be defined in accordance with the said system; thence northerly along the said second meridian to the sixtieth degree of north latitude; thence westerly along the parallel of the sixtieth degree of north latitude to the fourth meridian in the said system of Dominion lands surveys, as the same may be hereafter defined in accordance with the said system; thence southerly along the said fourth meridian to the said international boundary dividing Canada from the United States of America; thence easterly along the said international boundary to the point of commencement,—is hereby established as a province of the Dominion of Canada, to be called and known as the province of Saskatchewan.⁽³⁾

3. The provisions of the *British North America Acts, 1867 to 1886*, shall apply to the province of Saskatchewan in the same way and to the like extent as they apply to the provinces heretofore comprised in the Dominion, as if the said provinces of Saskatchewan had been one of the provinces originally united, except in so far as varied by this Act and except such provisions as are in terms made, or by reasonable intendment may be held to be, specially applicable to or only to affect one or more and not the whole of the said provinces.

B.N.A. Acts,
1867 to 1886,
to apply.

4. The said province shall be represented in the Senate of Canada by four members: Provided that such representation may, after the completion of the next decennial census, be from time to time increased to six by the Parliament of Canada.⁽⁴⁾

Representa-
tion in the
Senate.

5. The said province and the province of Alberta shall, until the termination of the Parliament of Canada existing at the time of the first readjustment hereinafter provided for, continue to be represented in the House of Commons as provided by chapter 60 of the statutes of 1903, each of the electoral districts defined in that part of the schedule to the said Act which relates to the Northwest Territories, whether such district is wholly in one of the said provinces, or partly in one and partly in the other of them, being represented by one member.⁽⁵⁾

Representa-
tion in the
House of
Commons.

6. Upon the completion of the next quinquennial census for the said province, the representation thereof shall forthwith be readjusted by the Parliament of Canada in such manner that there shall be assigned to the said province such a number of

Readjust-
ment after
next quin-
quennial
census.

(3) *Re* boundaries: See The Manitoba-Saskatchewan Boundary Act, 1937 (1 Geo. VI, c. 96) and The Alberta-Saskatchewan Boundary Act, 1939 (3 Geo. VI, c. 96) of the statutes of Saskatchewan.

(4) Saskatchewan, like the three other western provinces, has now six senators. See ante, section 1 of The B.N.A. Act, 1915 [5-6 Geo. V, c. 45].

(5) According to The Representation Act, R.S.C., 1952, c. 334, the representation of Saskatchewan is fixed at seventeen. See The B.N.A. Act, 1943, postponing till after the war the readjustment of the representation in the House of Commons. See also B.N.A. Act, 1946.

members as will bear the same proportion to the number of its population ascertained at such quinquennial census as the number sixty-five bears to the number of the population of Quebec as ascertained at the then last decennial census; and in the computation of the number of members for the said province a fractional part not exceeding one-half of the whole number requisite for entitling the province to a member shall be disregarded, and a fractional part exceeding one-half of that number shall be deemed equivalent to the whole number, and such readjustment shall take effect upon the termination of the Parliament then existing.

Subsequent
readjust-
ments.

2. The representation of the said province shall thereafter be readjusted from time to time according to the provisions of section 51 of The British North America Act, 1867.⁽⁶⁾

Election of
members of
House of
Commons.

7. Until the Parliament of Canada otherwise provides, the qualifications of voters for the election of members of the House of Commons and the proceedings at and in connection with elections of such members shall, *mutatis mutandis*, be those prescribed by law at the time this Act comes into force with respect to such elections in the Northwest Territories.⁽⁷⁾

Executive
Council.

8. The Executive Council of the said province shall be composed of such persons, under such designations, as the Lieutenant-Governor from time to time thinks fit.

Seat of
Government.

9. Unless and until the Lieutenant-Governor in Council of the said province otherwise directs, by proclamation under the Great Seal, the seat of government of the said province shall be at Regina.

Powers of
Lieutenant-
Governor
and Council.

10. All powers, authorities and functions which under any law were before the coming into force of this Act vested in or exercisable by the Lieutenant-Governor of the Northwest Territories, with the advice, or with the advice and consent of the Executive Council thereof, or in conjunction with that Council or with any member or members thereof, or by the said Lieutenant-Governor individually, shall, so far as they are capable of being exercised after the coming into force of this Act in relation to the government of the said province, be vested in and shall or may be exercised by the Lieutenant-Governor of the said province, with the advice or with the advice and consent of, or in conjunction with, the Executive Council of the said province or any member or members thereof, or by the Lieutenant-Governor individually, as the case requires, subject nevertheless to be abolished or altered by the Legislature of the said province.

(6) Representation in the House of Commons is governed by section 51 of the B.N.A. Act, 1867. See also section 51A as enacted by the B.N.A. Act, 1915.

(7) The qualifications of voters are now fixed by The Saskatchewan Election Act, c. 4 of the Revised Statutes of Saskatchewan, 1953.

11. The Lieutenant-Governor in Council shall, as soon as may be after this Act comes into force, adopt and provide a Great Seal of the said province, and may, from time to time change such seal. Great Seal.

12. There shall be a legislature for the said province consisting of the Lieutenant-Governor and one House, to be styled the Legislative Assembly of Saskatchewan. Legislature.

13. Until the said Legislature otherwise provides, the Legislative Assembly shall be composed of twenty-five members, to be elected to represent the electoral divisions defined in the schedule to this Act.⁽⁸⁾ Legislative Assembly.

14. Until the said Legislature otherwise determines, all the provisions of the law with regard to the constitution of the Legislative Assembly of the Northwest Territories and the election of members thereof shall apply, *mutatis mutandis*, to the Legislative Assembly of the said province and the election of members thereof respectively. Election of members of Assembly.

15. The writs for the election of the members of the first Legislative Assembly of the said province shall be issued by the Lieutenant-Governor and made returnable within six months after this Act comes into force. Writs for first election.

16. All laws and all orders and regulations made thereunder, so far as they are not inconsistent with anything contained in this Act, or as to which this Act contains no provision intended as a substitute therefor, and all courts of civil and criminal jurisdiction, and all commissions, powers, authorities and functions, and all officers and functionaries, judicial, administrative and ministerial, existing immediately before the coming into force of this Act in the territory hereby established as the province of Saskatchewan, shall continue in the said province as if this Act and The Alberta Act had not been passed; subject, nevertheless, except with respect to such as are enacted by or existing under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the said province, according to the authority of the Parliament or of the said Legislature: Provided that all powers, authorities and functions which under any law, order or regulation were, before the coming into force of this Act, vested in or exercisable by any public officer or functionary of the Northwest Territories shall be vested in and exercisable in and for the said province by like public officers and functionaries of the said province when appointed by competent authority. Laws, courts and officers continued.

Proviso.

(8) By section 2 of The Legislative Assembly Act, c. 3 of the Revised Statutes of Saskatchewan, 1953, the Legislative Assembly is declared to be composed of 53 members. In 1938 that the number of electoral divisions was decreased from 52 to 49 and the representation reduced from 55 to 52 members (Regina, Saskatoon and Moose Jaw returning two members each).

Province
may abolish
Supreme
Court of
N.W.T.

Proviso.

2. The Legislature of the province may, for all purposes affecting or extending to the said province, abolish the Supreme Court of the Northwest Territories, and the offices, both judicial and ministerial thereof, and the jurisdiction, powers and authority belonging or incident to the said court: Provided that, if upon such abolition, the Legislature constitutes a superior court of criminal jurisdiction, the procedure in criminal matters then obtaining in respect of the Supreme Court of the Northwest Territories shall, until otherwise provided by competent authority, continue to apply to such superior court, and that the Governor in Council may at any time and from time to time declare all or any part of such procedure to be applicable to such superior court.

As to certain
corporations
in N.W.T.

3. All societies or associations incorporated by or under the authority of the Legislature of the Northwest Territories existing at the time of the coming into force of this Act which include within their objects the regulation of the practice of, or the right to practice, any profession or trade in the Northwest Territories, such as the legal or the medical profession, dentistry, pharmaceutical chemistry and the like, shall continue, subject, however, to be dissolved and abolished by order of the Governor in Council, and each of such societies shall have power to arrange for and effect the payment of its debts and liabilities, and the division, disposition or transfer of its property.

As to joint-
stock
companies.

4. Every joint-stock company lawfully incorporated by or under the authority of any ordinance of the Northwest Territories shall be subject to the legislative authority of the province of Saskatchewan if

- (a) the head office or the registered office of such company is at the time of the coming into force of this Act situate in the province of Saskatchewan; and
- (b) the powers and objects of such company are such as might be conferred by the Legislature of the said province and not expressly authorized to be executed in any part of the Northwest Territories beyond the limits of the said province.⁽⁹⁾

Education.

17. Section 93 of the *British North America Act, 1867*, shall apply to the said province, with the substitution for paragraph (1) of the said section 93, of the following paragraph:—

“(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any

(9) The Dominion statute, 1886, 49 Vict., c. 25, s. 3 amending the North West Territories Act and reproduced in the above Act, R.S.C. 1886, c. 50, s. 11, put in force in the Territories the laws of England, civil and criminal, as of July 15th, 1870 “so far as the same are applicable to the Territories,” and not repealed, altered or affected by subsequent appropriate legislation and the Saskatchewan Act continued the laws in effect at the time of its establishment.

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29, or any Act passed in amendment thereof or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

18. The following amounts shall be allowed as an annual subsidy to the province of Saskatchewan, and shall be paid by the Government of Canada, by half-yearly instalments in advance, to the said province, that is to say,—

Subsidy to
province.

19. Inasmuch as the said province is not in debt, it shall be entitled to be paid and to receive from the Government of Canada, by half-yearly payments in advance, an annual sum of four hundred and five thousand three hundred and seventy-five dollars, being the equivalent of interest at the rate of five per cent per annum on the sum of eight million one hundred and seven thousand five hundred dollars.⁽¹⁰⁾
- Annual
payment to
province.

(10) See B.N.A. Act (1907), c. 11, s. 1, and notes to section 118 of the B.N.A. Act, 1867.

Compensation to province for public lands.

20. Inasmuch as the said province will not have the public land as a source of revenue, there shall be paid by Canada to the province by half-yearly payments, in advance, an annual sum based upon the population of the province as from time to time ascertained by the quinquennial census thereof, as follows:

The population of the said province being assumed to be at present two hundred and fifty thousand, the sum payable until such population reaches four hundred thousand, shall be three hundred and seventy-five thousand dollars;

Thereafter, until such population reaches eight hundred thousand, the sum payable shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

Further compensation.

2. As an additional allowance in lieu of public lands, there shall be paid by Canada to the province annually by half-yearly payments, in advance, for five years from the time this Act comes into force, to provide for the construction of necessary public buildings, the sum of ninety-three thousand seven hundred and fifty dollars.

Property in lands, etc.

21. All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the province under The Northwest Irrigation Act, 1898, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said province with the substitution therein of the said province for the Northwest Territories.

Division of assets and liabilities between Alberta and Saskatchewan.

22. All properties and assets of the Northwest Territories shall be equally divided between the said province and the province of Alberta, and the two provinces shall be jointly and equally responsible for all debts and liabilities of the Northwest Territories: Provided that, if any difference arises as to the division and adjustment of such properties, assets, debts and liabilities, such difference shall be referred to the arbitrament of three arbitrators, one of whom shall be chosen by the Lieutenant-Governor in Council of each province, and the third by the Governor in Council. The selection of such arbitrators shall not be made until the Legislatures of the provinces have met, and the arbitrator chosen by Canada shall not be a resident of either province.

Arbitration.

23. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Rupert's Land to the Crown. Rights of
H. B. Co.

24. The powers hereby granted to the said province shall be exercised subject to the provisions of section 16 of the contract set forth in the schedule to chapter 1 of the statutes of 1881, being an Act respecting the Canadian Pacific Railway Company. Provision
as to
C.P.R. Co.

25. This Act shall come into force on the first day of September, one thousand nine hundred and five. Commence-
ment of Act.

SCHEDULE

(Section 13)

The province of Saskatchewan shall be divided into twenty-five electoral divisions which shall respectively comprise and consist of the parts and portions of the province hereinafter described.

In the following descriptions where "meridians between ranges" and "boundaries of townships" or "boundaries of sections" are referred to as the boundaries of electoral divisions, these expressions means the meridians, boundaries of townships, or boundaries of sections, as the case may be, in accordance with the Dominion lands system of surveys, and include the extension thereof in accordance with the said system.

Names and Descriptions of Divisions

(1) The electoral division of Souris, bounded as follows:

Commencing at the south-east corner of the said province of Saskatchewan; thence northerly along the east boundary of the said province of Saskatchewan to the north boundary of the 6th township; thence westerly along the said north boundary of the 6th townships to the meridian between the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

(2) The electoral division of Cannington, bounded as follows:

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 6th township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the 11th township; thence westerly along the said north boundary of the 11th townships to the meridian between the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 6th township; thence easterly along the said north boundary of the 6th townships to the point of commencement.

(3) The electoral division of Moosomin, bounded as follows:

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 11th township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the 19th township; thence westerly along the said north boundary of the 19th townships to the

2nd meridian; thence southerly along the said 2nd meridian to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

(4) The electoral division of Whitewood, bounded as follows:

Commencing at the 2nd meridian where it is intersected by the north boundary of the 11th township; thence northerly along the said 2nd meridian to the north boundary of the 20th township; thence westerly along the said north boundary of the 20th townships to the meridian between the 4th and 5th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 4th and 5th ranges to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

(5) The electoral division of Grenfell, bounded as follows:

Commencing at the meridian between the 4th and 5th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 11th township; thence northerly along the said meridian between the 4th and 5th ranges of the north boundary of the 20th township; thence westerly along the said north boundary of the 20th townships to the meridian between the 6th and 7th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 6th and 7th ranges to the north boundary of the 21st township; thence westerly along the said north boundary of the 21st township to the meridian between the 7th and 8th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 7th and 8th ranges to the north boundary of the 22nd township; thence westerly along the said north boundary of the 22nd township to the meridian between the 8th and 9th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 8th and 9th ranges to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

(6) The electoral division of Wolseley, bounded as follows:

Commencing at the meridian between the 8th and 9th ranges west of the 2nd meridian, where it is intersected by the north boundary of the 11th township; thence northerly along the said meridian between the 8th and 9th ranges to the north boundary of the 22nd township; thence westerly along the said north boundary of the 22nd townships to the meridian between the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 19th township; thence westerly along the said north boundary of the 19th township to the meridian between the 11th and 12th ranges west of the 2nd meridian; thence southerly along the said meridian between the 11th and 12th ranges to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

(7) The electoral division of Saltcoats, bounded as follows:

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 19th township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between the 3rd and 4th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 3rd and 4th ranges to the north boundary of the 20th township; thence easterly along the said north boundary of the 20th townships to the 2nd meridian; thence southerly along the said 2nd meridian to the north boundary of the 19th township; thence easterly along the said north boundary of the 19th townships to the point of commencement.

(8) The electoral division of Yorkton, bounded as follows:

Commencing at the meridian between the 3rd and 4th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 20th township; thence northerly along the said meridian between the 3rd and 4th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 22nd township; thence easterly along the said north boundary of the 22nd townships to the meridian between the 7th and 8th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 7th and 8th ranges to the north boundary of the 21st township; thence easterly along the said north boundary of the 21st township to the meridian between the 6th and 7th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 6th and 7th ranges to the north boundary of the 20th township; thence easterly along the said north boundary of the 20th townships to the point of commencement.

(9) The electoral division of South Qu'Appelle, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 2nd meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 11th township; thence westerly along the said north boundary of the 11th township to the meridian between the 11th and 12th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 11th and 12th ranges to the north boundary of the 19th township; thence westerly along the said north boundary of the 19th townships to the meridian between the 16th and 17th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 16th and 17th ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

(10) The electoral division of North Qu'Appelle, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 19th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between the 16th and 17th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 16th and 17th ranges to the north boundary of the 19th township; thence easterly along the said north boundary of the 19th townships to the point of commencement.

(11) The electoral division of South Regina, bounded as follows:

Commencing at the meridian between the 16th and 17th ranges, west of the 2nd meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 16th and 17th ranges to where it is intersected by the centre of the track of the main line of the Canadian Pacific Railway; thence westerly along the said centre of the track of the main line of the Canadian Pacific Railway to where it is first intersected by the north boundary of the 17th township; thence westerly along the said north boundary of the 17th townships to the meridian between the 23rd and 24th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 23rd and 24th ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

Excepting and reserving out of the said electoral division of South Regina all that portion thereof comprised within the limits of the city of Regina as incorporated by ordinance of the Northwest Territories.

(12) The electoral division of Regina City, comprising the city of Regina as incorporated by ordinance of the Northwest Territories.

(13) The electoral division of Lumsden, bounded as follows:

Commencing at the meridian between the 16th and 17th ranges, west of the 2nd meridian, where it is intersected by the centre of the track of the main line of the Canadian Pacific Railway; thence northerly along the said meridian between the 16th and 17th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between the 23rd and 24th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 23rd and 24th ranges to the point where it is first intersected by the east shore of Last Mountain lake, thence southerly along the said east shore of the said lake to its intersection with the meridian between the 23rd and 24th ranges in township 24; thence southerly along the said meridian between the 23rd and 24th ranges to the north boundary of the 17th township; thence easterly along the said north boundary of the 17th townships to where it is first intersected by the centre of the track of the main line of the Canadian Pacific Railway; thence easterly along the said centre of the track of the main line of the Canadian Pacific Railway to the point of commencement.

(14) The electoral division of Moose Jaw, bounded as follows:

Commencing at the meridian between the 23rd and 24th ranges, west of the 2nd meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 23rd and 24th ranges to the point where the said meridian intersects the east shore of Last Mountain lake in township 24; thence northerly along the said east shore of Last Mountain lake to its intersection with the northern boundary of township 26, thence westerly along the said north boundary of the 26th townships to the meridian between the 7th and 8th ranges, west of the 3rd meridian; thence southerly along the said meridian between 7th and 8th ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement;—excepting and reserving out of the said electoral division of Moose Jaw all that portion thereof comprised within the limits of the city of Moose Jaw as incorporated by ordinance of the Northwest Territories.

(15) The electoral division of Moose Jaw City, comprising the City of Moose Jaw as incorporated by ordinance of the Northwest Territories.

(16) The electoral division of Maple Creek, bounded as follows:

Commencing at the meridian between the 7th and 8th ranges, west of the third meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 7th and 8th ranges in the north boundary of the 26th township; thence westerly along the said north boundary of the 26th township to the western boundary of the said province of Saskatchewan; thence southerly along the said western boundary of the province of Saskatchewan to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

(17) The electoral division of Humboldt, bounded as follows:

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 34th township; thence northerly along the said eastern boundary of the province of

Saskatchewan to the north boundary of the 42nd township; thence westerly along the said north boundary of the 42nd townships to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 24th and 25th ranges to the north boundary of the 34th township; thence easterly along the said north boundary of the 34th townships to the point of commencement.

(18) The electoral division of Kinistino, bounded as follows:

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 42nd township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north-east corner of the said province; thence westerly along the northern boundary of the said province of Saskatchewan to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 24th and 25th ranges to the north limit of the Indian Reserve Chief Muskoday; thence easterly along the said north limit of the Indian Reserve Chief Muskoday to the South Saskatchewan river; thence along the South Saskatchewan river up stream to the north boundary of the 45th township; thence easterly along the said north boundary of the 45th townships to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 24th and 25th ranges, to the north boundary of the 42nd township; thence easterly along the said north boundary of the 42nd townships to the point of commencement.

(19) The electoral division of Prince Albert, bounded as follows:

Commencing at the meridian between the 24th and 25th ranges, west of the 2nd meridian, where it is intersected by the northern boundary of the said province of Saskatchewan; thence westerly along the said northern boundary of the province of Saskatchewan to the meridian between the 5th and 6th ranges, west of the 3rd meridian; thence southerly along the said meridian between the 5th and 6th ranges to the north boundary of the 47th township; thence easterly along the said north boundary of the 47th townships to the meridian between the first and 2nd ranges, west of the 3rd meridian; thence southerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 46th township; thence easterly along the said north boundary of the 46th townships to the 3rd meridian; thence southerly along the said 3rd meridian to the South Saskatchewan river; thence along the said South Saskatchewan river down stream to the north limit of the Indian Reserve Chief Muskoday; thence westerly along the said north limit of the Indian Reserve Chief Muskoday to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 24th and 25th ranges to the point of commencement; excepting and reserving out of the said electoral division all those portions described as follows:

Firstly, the city of Prince Albert as incorporated by ordinances of the Northwest Territories; and

Secondly, those portions of lots 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82 of the Prince Albert settlement which lie to the south of the said city of Prince Albert as incorporated and that portion of the Hudson Bay reserve outside of and adjoining the said city on the east and south and which lies to the north of the production in a straight line easterly of the southern boundary of the said lot 82 in the Prince Albert settlement; and

Thirdly, fractional sections 13 and 24 in the 48th township in the 26th range west of the 2nd meridian.

(20) The electoral division of Prince Albert City, comprising:

Firstly, the city of Prince Albert as incorporated by ordinance of the Northwest Territories; and

Secondly, those portions of lots 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82 of the Prince Albert settlement which lie to the south of the said city of Prince Albert as incorporated and that portion of the Hudson Bay reserve outside of and adjoining the said city on the east and south and which lies to the north of the production in a straight line easterly of the southern boundary of the said lot 82 in the Prince Albert settlement; and

Thirdly, fractional sections 13 and 24 in the 48th township in the 26th range west of the 2nd meridian.

(21) The electoral division of Batoche, bounded as follows:

Commencing at the meridian between the 23rd and 24th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 26th township; thence northerly along the said meridian between the 23rd and 24th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th township to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 24th and 25th ranges to the north boundary of the 45th township; thence westerly along the said north boundary of the 45th townships to where it first intersects the South Saskatchewan river; thence along the said South Saskatchewan river up stream to the north boundary of the 40th township; thence easterly along the said north boundary of the 40th townships to the meridian between the 1st and 2nd ranges, west of the 3rd meridian; thence southerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 26th township; thence easterly along the said north boundary of the 26th townships to the point of commencement.

(22) The electoral division of Saskatoon, bounded as follows:

Commencing at the meridian between the 1st and 2nd ranges, west of the 3rd meridian, where it is intersected by the north boundary of the 26th township; thence northerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 40th township; thence westerly along the said north boundary of the 40th township to the South Saskatchewan river; thence along the said South Saskatchewan river down stream to the north boundary of the 41st township; thence westerly along the said north boundary of the 41st townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the meridian between the 13th and 14th ranges west of the 3rd meridian; thence southerly along the said meridian between the 13th and 14th ranges to the north boundary of the 26th township; thence easterly along the said north boundary of the 26th townships to the point of commencement.

(23) The electoral division of Rosthern, bounded as follows:

Commencing at the north boundary of the 41st township where it is intersected by the South Saskatchewan river; thence along the said South Saskatchewan river down stream to the 3rd meridian; thence northerly along the said 3rd meridian to the north boundary of the 46th township; thence westerly along the said north boundary of the 46th township to the meridian between the 1st and 2nd ranges, west of the 3rd meridian; thence northerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 47th township; thence westerly along the said north boundary of the 47th townships to the meridian between the 5th and 6th ranges, west of the 3rd meridian; thence southerly along the said meridian between the 5th and 6th ranges to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 41st township; thence easterly along the said north boundary of the 41st townships to the point of commencement.

(24) The electoral division of Redberry, bounded as follows:

Commencing at the meridian between the 5th and 6th ranges, west of the 3rd meridian, where it is intersected by the North Saskatchewan river; thence northerly along the said meridian between the 5th and 6th ranges, to the northern boundary of the said province of Saskatchewan; thence westerly along the said northern boundary of the province of Saskatchewan to the meridian between the 13th and 14th ranges, west of the 3rd meridian; thence southerly along the said meridian between the 13th and 14th ranges, to the North Saskatchewan river; thence along the said North Saskatchewan river down stream to the point of commencement.

(25) The electoral division of Battleford, bounded as follows:

Commencing at the meridian between the 13th and 14th ranges, west of the 3rd meridian, where it is intersected by the north boundary of the 26th township; thence northerly along the said meridian between the 13th and 14th ranges, to the northern boundary of the said province of Saskatchewan; thence westerly along the said northern boundary of the province of Saskatchewan to the western boundary of the said province of Saskatchewan; thence southerly along the said western boundary of the province of Saskatchewan to the north boundary of the 26th township; thence easterly along the said north boundary of the 26th townships to the point of commencement.

THE PRINCE EDWARD ISLAND SUBSIDY
ACT, 1912⁽¹⁾

2 GEORGE V, CHAPTER 42

An Act to provide an additional Annual Grant to the
Province of Prince Edward Island

[Assented to 1st April, 1912.]

HIS MAJESTY, by and with the advice and consent of the
Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Prince Edward Island
Subsidy Act, 1912*.

Annual
grant
to P.E.I.
increased.

2. There shall be paid to the province of Prince Edward
Island, in addition to the sums now authorized by law, an
annual grant of one hundred thousand dollars, one half of which
shall become payable on the first day of July and one half on
the first day of January in every year, beginning with the first
day of July, one thousand nine hundred and twelve.

(1) See the *Provincial Subsidies Act* which follows. Item 526 of the
Appropriation Act No. 6, c. 76 of the statutes of 1926-27 reads as follows:

“526. Amount required to provide for grants to be made to the
Provinces of—

Nova Scotia	\$875,000 00
New Brunswick	600,000 00
Prince Edward Island	125,000 00”

TERMS OF UNION OF NEWFOUNDLAND WITH CANADA ACT

13 GEORGE VI, CHAPTER 1

An Act to approve the Terms of Union of Newfoundland with Canada⁽¹⁾

[Assented to 18th February, 1949.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The agreement set out in the Schedule to this Act is hereby approved. Agreement
approved.

SCHEDULE

TERMS OF UNION OF NEWFOUNDLAND WITH CANADA

MEMORANDUM OF AGREEMENT ENTERED INTO ON THE ELEVENTH
DAY OF DECEMBER, 1948, BETWEEN CANADA AND NEWFOUNDLAND

WHEREAS a delegation appointed from its members by the National Convention of Newfoundland, a body elected by the people of Newfoundland, consulted in 1947 with the Government of Canada to ascertain what fair and equitable basis might exist for the union of Newfoundland with Canada;

WHEREAS, following discussions with the delegation, the Government of Canada sent to His Excellency the Governor of Newfoundland for submission to the National Convention a statement of terms which the Government of Canada would be prepared to recommend to the Parliament of Canada as a fair and equitable basis for union, should the people of Newfoundland desire to enter into confederation;

WHEREAS the proposed terms were debated in the National Convention in Newfoundland and were before the people of Newfoundland when, by a majority at a referendum held on the twenty-second day of July, 1948, they expressed their desire to enter into confederation with Canada;

WHEREAS the Governments of the United Kingdom, Canada and Newfoundland agreed after the referendum that representatives of Canada and Newfoundland should meet and settle the final terms and arrangements for the union of Newfoundland with Canada;

(1) By this Act the Parliament of Canada approved the Agreement containing the Terms of Union between Canada and Newfoundland. It was following this approval and that of the Government of Newfoundland that was passed in the United Kingdom, the B.N.A. (No. 1) Act, 1949 confirming and giving effect to the said Terms of Union. The Act of the United Kingdom was assented to on the 23rd March, 1949.

It is interesting to read the speech made by the Prime Minister of Canada, the Right Honourable L.-S. St. Laurent in the House of Commons, Monday the 7th of September, 1949, as to the discussions which preceded union, as to the referenda placed before the electors of Newfoundland the 3rd of June, 1948 and the 22nd of July of the same year and for a summary of everything related to the coming of Newfoundland into Confederation.

AND WHEREAS authorized representatives of Canada and authorized representatives of Newfoundland have settled the terms hereinafter set forth as the Terms of Union of Newfoundland with Canada;

It is therefore agreed as follows:

TERMS OF UNION

UNION

1. On, from, and after the coming into force of these Terms (hereinafter referred to as the date of Union), Newfoundland shall form part of Canada and shall be a province thereof to be called and known as the Province of Newfoundland.

2. The Province of Newfoundland shall comprise the same territory as at the date of Union, that is to say, the island of Newfoundland and the islands adjacent thereto, the Coast of Labrador as delimited in the report delivered by the Judicial Committee of His Majesty's Privy Council on the first day of March, 1927, and approved by His Majesty in His Privy Council on the twenty-second day of March, 1927, and the islands adjacent to the said Coast of Labrador.

APPLICATION OF THE BRITISH NORTH AMERICA ACTS

3. The British North America Acts, 1867 to 1946, shall apply to the Province of Newfoundland in the same way, and to the like extent as they apply to the provinces heretofore comprised in Canada, as if the Province of Newfoundland had been one of the provinces originally united, except in so far as varied by these Terms and except such provisions as are in terms made or by reasonable intendment may be held to be specially applicable to or only to affect one or more and not all of the provinces originally united.

REPRESENTATION IN PARLIAMENT

4. The Province of Newfoundland shall be entitled to be represented in the Senate by six members, and in the House of Commons by seven members out of a total membership of two hundred and sixty-two.

5. Representation in the Senate and in the House of Commons shall from time to time be altered or readjusted in accordance with the British North America Acts, 1867 to 1946.

6. (1) Until the Parliament of Canada otherwise provides, the Province of Newfoundland shall for the purposes of the election of members to serve in the House of Commons, be divided into the electoral divisions named and delimited in the Schedule to these Terms, and each such division shall be entitled to return one member.

(2) For the first election of members to serve in the House of Commons, if held otherwise than as part of a general election, the Governor General in Council may cause writs to be issued and may fix the day upon which the polls shall be held, and, subject to the foregoing, the laws of Canada relating to by-elections shall apply to an election held pursuant to any writ issued under this Term.

(3) The Chief Electoral Officer shall have authority to adapt the provisions of The Dominion Elections Act, 1938, to conditions existing in the Province of Newfoundland so as to conduct effectually the first election of members to serve in the House of Commons.

PROVINCIAL CONSTITUTION

7. The Constitution of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, is revived at the date of Union and shall, subject to these Terms and the British North America Acts,

1867 to 1946, continue as the Constitution of the Province of Newfoundland from and after the date of Union, until altered under the authority of the said Acts.

Executive

8. (1) For the Province of Newfoundland there shall be an officer styled the Lieutenant-Governor, appointed by the Governor General in Council by instrument under the Great Seal of Canada.

(2) Pending the first appointment of a Lieutenant-Governor for the Province of Newfoundland and the assumption of his duties as such, the Chief Justice, or if the office of Chief Justice is vacant, the senior judge, of the Supreme Court of Newfoundland, shall execute the office and functions of Lieutenant-Governor under his oath of office as such Chief Justice or senior judge.

9. The Constitution of the Executive Authority of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, shall, subject to these Terms and the British North America Acts, 1867 to 1946, continue as the Constitution of the Executive Authority of the Province of Newfoundland from and after the date of Union, until altered under the authority of the said Acts.

10. The Lieutenant-Governor in Council shall as soon as may be after the date of Union adopt and provide a Great Seal of the Province of Newfoundland and may from time to time change such seal.

11. All powers, authorities, and functions that under any statute were at or immediately prior to the date of Union vested in or exercisable by the Governor of Newfoundland individually, or in Council, or in Commission,

(a) as far as they are capable of being exercised after the date of Union in relation to the Government of Canada, shall be vested in and shall or may be exercised by the Governor General, with the advice, or with the advice and consent, or in conjunction with, the King's Privy Council for Canada or any member or members thereof, or by the Governor General individually, as the case requires, subject nevertheless to be abolished or altered by the Parliament of Canada under the authority of the British North America Acts, 1867 to 1946; and

(b) as far as they are capable of being exercised after the date of Union in relation to the Government of the Province of Newfoundland, shall be vested in and shall or may be exercised by the Lieutenant-Governor of the Province of Newfoundland, with the advice, or with the advice and consent, or in conjunction with, the Executive Council of the Province of Newfoundland or any member or members thereof, or by the Lieutenant-Governor individually, as the case requires, subject nevertheless to be abolished or altered by the Legislature of the Province of Newfoundland under the authority of the British North America Acts, 1867 to 1946.

12. Until the Parliament of Canada otherwise provides, the powers, authorities, and functions vested in or imposed on any member of the Commission of Government of Newfoundland, as such member or as a Commissioner charged with the administration of a Department of the Government of Newfoundland, at or immediately prior to the date of Union in relation to matters other than those coming within the classes of subjects by the British North America Acts, 1867 to 1946, assigned exclusively to the Legislature of a province, shall in the Province of Newfoundland be vested in or imposed on such person or persons as the Governor General in Council may appoint or designate.

13. Until the Legislature of the Province of Newfoundland otherwise provides, the powers, authorities, and functions vested in or imposed on any member of the Commission of Government of Newfoundland, as such

member or as a Commissioner charged with the administration of a Department of the Government of Newfoundland, at or immediately prior to the date of Union in relation to matters coming within the classes of subjects by the British North America Acts, 1867 to 1946, assigned exclusively to the Legislature of a province, shall in the Province of Newfoundland be vested in or imposed on such person or persons as the Lieutenant-Governor in Council may appoint or designate.

Legislature

14. (1) Subject to paragraph two of this Term, the Constitution of the Legislature of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, shall, subject to these Terms and the British North America Acts, 1867 to 1946, continue as the Constitution of the Legislature of the Province of Newfoundland from and after the date of the Union, until altered under the authority of the said Acts.

(2) The Constitution of the Legislature of Newfoundland in so far as it relates to the Legislative Council shall not continue, but the Legislature of the Province of Newfoundland may at any time re-establish the Legislative Council or establish a new Legislative Council.

15. (1) Until the Legislature of the Province of Newfoundland otherwise provides, the powers, authorities, and functions vested in or imposed on a Minister or other public officer or functionary under any statute of Newfoundland relating to the Constitution of the Legislature of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, shall, subject to these Terms and the British North America Acts, 1867 to 1946, be vested in or imposed on such person or persons as the Lieutenant-Governor in Council may appoint or designate.

(2) Until the Legislature of the Province of Newfoundland otherwise provides,

- (a) the list of electors prepared pursuant to The List of Electors Act, 1947, shall be deemed to be the list of electors for the purposes of The Election Act, 1913, subject to the provisions of The Election Act, 1913, respecting supplementary lists of electors;
- (b) the franchise shall be extended to female British subjects who have attained the full age of twenty-one years and are otherwise qualified as electors;
- (c) the Coast of Labrador together with the islands adjacent thereto shall constitute an additional electoral district to be known as Labrador and to be represented by one member, and residents of the said district who are otherwise qualified as electors shall be entitled to vote; and
- (d) the Lieutenant-Governor in Council may by proclamation defer any election in the electoral district of Labrador for such period as may be specified in the proclamation.

16. The Legislature of the Province of Newfoundland shall be called together not later than four months after the date of Union.

EDUCATION

17. In lieu of section ninety-three of the British North America Act, 1867, the following Term shall apply in respect of the Province of Newfoundland:

In and for the Province of Newfoundland the Legislature shall have exclusive authority to make laws in relation to education, but the Legislature will not have authority to make laws prejudicially affecting any right or privilege with respect to denominational schools, common (amalgamated) schools, or denominational colleges, that any

class or classes of persons have by law in Newfoundland at the date of Union, and out of public funds of the Province of Newfoundland, provided for education,

- (a) all such schools shall receive their share of such funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature for all schools then being conducted under authority of the Legislature; and
- (b) all such colleges shall receive their share of any grant from time to time voted for all colleges then being conducted under authority of the Legislature, such grant being distributed on a non-discriminatory basis.

CONTINUATION OF LAWS

General

18. (1) Subject to these Terms, all laws in force in Newfoundland at or immediately prior to the date of Union shall continue therein as if the Union had not been made, subject nevertheless to be repealed, abolished, or altered by the Parliament of Canada or by the Legislature of the Province of Newfoundland according to the authority of the Parliament or of the Legislature under the British North America Acts, 1867 to 1946, and all orders, rules, and regulations made under any such laws shall likewise continue, subject to be revoked or amended by the body or person that made such orders, rules, or regulations or the body or person that has power to make such orders, rules, or regulations after the date of Union, according to their respective authority under the British North America Acts, 1867 to 1946.

(2) Statutes of the Parliament of Canada in force at the date of Union, or any part thereof, shall come into force in the Province of Newfoundland on a day or days to be fixed by Act of the Parliament of Canada or by proclamation of the Governor General in Council issued from time to time, and any such proclamation may provide for the repeal of any of the laws of Newfoundland that

- (a) are of general application;
- (b) relate to the same subject-matter as the statute or part thereof so proclaimed; and
- (c) could be repealed by the Parliament of Canada under paragraph one of this Term.

(3) Notwithstanding anything in these Terms, the Parliament of Canada may with the consent of the Legislature of the Province of Newfoundland repeal any law in force in Newfoundland at the date of Union.

(4) Except as otherwise provided by these Terms, all courts of civil and criminal jurisdiction and all legal commissions, powers, authorities, and functions, and all officers and functionaries, judicial, administrative, and ministerial, existing in Newfoundland at or immediately prior to the date of Union, shall continue in the Province of Newfoundland as if the Union had not been made, until altered, abolished, revoked, terminated, or dismissed by the appropriate authority under the British North America Acts, 1867 to 1946.

Supply

19. Any statute of Newfoundland enacted prior to the date of Union for granting to His Majesty sums of money for defraying expenses of, and for other purposes relating to, the public service of Newfoundland, for the financial year ending the thirty-first day of March, one thousand nine hundred and fifty, shall have effect after the date of Union according to its terms, until otherwise provided by the Legislature of the Province of Newfoundland.

Patents

20. (1) Subject to this Term, Canada will provide that letters patent for inventions issued under the laws of Newfoundland prior to the date of Union shall be deemed to have been issued under the laws of Canada, as of the date and for the term thereof.

(2) Canada will provide further that in the event of conflict between letters patent for an invention issued under the laws of Newfoundland prior to the date of Union and letters patent for an invention issued under the laws of Canada prior to the date of Union

(a) the letters patent issued under the laws of Newfoundland shall have the same force and effect in the Province of Newfoundland as if the Union had not been made, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in the Province of Newfoundland as if the Union had not been made; and

(b) the letters patent issued under the laws of Canada shall have the same force and effect in any part of Canada other than the Province of Newfoundland as if the Union had not been made, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in any part of Canada other than the Province of Newfoundland as if the Union had not been made.

(3) The laws of Newfoundland existing at the date of Union shall continue to apply in respect of applications for the grant of letters patent for inventions under the laws of Newfoundland pending at the date of Union, and any letters patent for inventions issued upon such applications shall, for the purposes of this Term, be deemed to have been issued under the laws of Newfoundland prior to the date of Union; and letters patent for inventions issued under the laws of Canada upon applications pending at the date of Union shall, for the purposes of this Term, be deemed to have been issued under the laws of Canada prior to the date of Union.

(4) Nothing in this Term shall be construed to prevent the Parliament of Canada from providing that no claims for infringement of a patent issued in Canada prior to the date of Union shall be entertained by any court against any person for anything done in Newfoundland prior to the date of Union in respect of the invention protected by such patent, and that no claims for infringement of a patent issued in Newfoundland prior to the date of Union shall be entertained by any court against any person for anything done in Canada prior to the date of Union in respect of the invention protected by such patent.

Trade Marks

21. (1) Canada will provide that the registration of a trade mark under the laws of Newfoundland prior to the date of Union shall have the same force and effect in the Province of Newfoundland as if the Union had not been made, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in the Province of Newfoundland as if the Union had not been made.

(2) The laws of Newfoundland existing at the date of Union shall continue to apply in respect of applications for the registration of trade marks under the laws of Newfoundland pending at the date of Union and any trade marks registered upon such applications shall, for the purposes of this Term, be deemed to have been registered under the laws of Newfoundland prior to the date of Union.

Fisheries

22. (1) In this Term, the expression "Fisheries Laws" means the Act No. 11 of 1936, entitled "An Act for the creation of the Newfoundland Fisheries Board", the Act No. 14 of 1936, entitled "An Act to

Prevent the Export of Fish Without Licence", the Act No. 32 of 1936, entitled "An Act to Amend the Newfoundland Fisheries Board Act (No. 11 of 1936)", the Act No. 37 of 1938, entitled "An Act Further to Amend the Newfoundland Fisheries Board Act, 1936", the Act No. 10 of 1942, entitled "An Act Respecting Permits for the Exportation of Salt Fish", the Act No. 39 of 1943, entitled "An Act Further to Amend the Newfoundland Fisheries Board Act, 1936", the Act No. 16 of 1944, entitled "An Act Further to Amend the Newfoundland Fisheries Board Acts, 1936-38", and the Act No. 42 of 1944, entitled "An Act Further to Amend the Newfoundland Fisheries Board Act, 1936", in so far as they relate to the export marketing of salted fish from Newfoundland to other countries or to any provinces of Canada.

(2) Subject to this Term, all Fisheries Laws and all orders, rules, and regulations made thereunder shall continue in force in the Province of Newfoundland as if the Union had not been made, for a period of five years from the date of Union and thereafter until the Parliament of Canada otherwise provides, and shall continue to be administered by the Newfoundland Fisheries Board; and the costs involved in the maintenance of the Board and the administration of the Fisheries Laws shall be borne by the Government of Canada.

(3) The powers, authorities, and functions vested in or imposed on the Governor in Commission or the Commissioner for Natural Resources under any of the Fisheries Laws shall after the date of Union respectively be vested in or imposed on the Governor General in Council and the Minister of Fisheries of Canada or such other Minister as the Governor General in Council may designate.

(4) Any of the Fisheries Laws may be repealed or altered at any time within the period of five years from the date of Union by the Parliament of Canada with the consent of the Lieutenant-Governor in Council of the Province of Newfoundland and all orders, rules, and regulations made under the authority of any Fisheries Laws may be revoked or altered by the body or person that made them or, in relation to matters to which paragraph three of this Term applies, by the body or person that under the said paragraph three has power to make such orders, rules, or regulations under the Fisheries Laws after the date of Union.

(5) The Chairman of the Newfoundland Fisheries Board or such other member of the Newfoundland Fisheries Board as the Governor General in Council may designate shall perform in the Province of Newfoundland the duties of Chief Supervisor and Chief Inspector of the Department of Fisheries of the Government of Canada, and employees of the Newfoundland Fisheries Board shall become employees in that Department in positions comparable to those of the employees in that Department in other parts of Canada.

(6) Terms eleven, twelve, thirteen and eighteen are subject to this Term.

FINANCIAL TERMS

Debt

23. Canada will assume and provide for the servicing and retirement of the stock issued or to be issued on the security of Newfoundland pursuant to The Loan Act, 1933, of Newfoundland and will take over the Sinking Fund established under that Act.

Financial Surplus

24. (1) In this Term the expression "financial surplus" means the balances standing to the credit of the Newfoundland Exchequer at the date of Union (less such sums as may be required to discharge accounts payable at the date of Union in respect of appropriations for the public services) and any public moneys or public revenue (including loans and

advances referred to in Term twenty-five) in respect of any matter, thing, or period prior to the date of Union recovered by the Government of the Province of Newfoundland subsequent to the date of Union.

(2) Newfoundland will retain its financial surplus subject to the following conditions:

- (a) one-third of the surplus shall be set aside during the first eight years from the date of Union, on deposit with the Government of Canada, to be withdrawn by the Government of the Province of Newfoundland only for expenditures on current account to facilitate the maintenance and improvement of Newfoundland public services, and any portion of this one-third of the surplus remaining unspent at the end of the eight-year period shall become available to the Province of Newfoundland without the foregoing restriction;
- (b) the remaining two-thirds of the surplus shall be available to the Government of the Province of Newfoundland for the development of resources and for the establishment or extension of public services within the Province of Newfoundland; and
- (c) no part of the surplus shall be used to subsidize the production or sale of products of the Province of Newfoundland in unfair competition with similar products of other provinces of Canada, but nothing in this paragraph shall preclude the Province of Newfoundland from assisting industry by developmental loans on reasonable conditions or by ordinary provincial administrative services.

(3) The Government of the Province of Newfoundland will have the right within one year from the date of Union to deposit with the Government of Canada all or any part of its financial surplus held in dollars and on the thirty-first day of March and the thirtieth day of September in each year to receive with respect thereto interest at the rate of two and five-eighths per centum per annum during a maximum period of ten years from the date of Union on the minimum balance outstanding at any time during the six-month period preceding payment of interest.

Loans

25. (1) The Province of Newfoundland will retain its interest in, and any securities arising from or attaching to, any loans or advances of public funds made by the Government of Newfoundland prior to the date of Union.

(2) Unless otherwise agreed by the Government of Canada, paragraph one of this Term shall not apply to any loans or advances relating to any works, property, or services taken over by Canada pursuant to Term thirty-one or Term thirty-three.

Subsidies

26. Canada will pay to the Province of Newfoundland the following subsidies:

- (a) an annual subsidy of \$180,000 and an annual subsidy equal to 80 cents per head of the population of the Province of Newfoundland (being taken at 325,000 until the first decennial census after the date of Union), subject to be increased to conform to the scale of grants authorized by the British North America Act, 1907, for the local purposes of the Province and the support of its Government and Legislature, but in no year shall sums payable under this paragraph be less than those payable in the first year after the date of Union; and
- (b) an additional annual subsidy of \$1,000,000 payable for the like purposes as the various fixed annual allowances and subsidies provided by statutes of the Parliament of Canada from time to

time for the Provinces of Nova Scotia, New Brunswick, and Prince Edward Island or any of them and in recognition of the special problems of the Province of Newfoundland by reason of geography and its sparse and scattered population.

Tax Agreement

27. (1) The Government of Canada will forthwith after the date of Union make an offer to the Government of the Province of Newfoundland to enter into a tax agreement for the rental to the Government of Canada of the income, corporation income, and corporation tax fields, and the succession duties tax field.

(2) The offer to be made under this Term will be similar to the offers to enter into tax agreements made to other provinces, necessary changes being made to adapt the offer to circumstances arising out of the Union, except that the offer will provide that the agreement may be entered into either for a number of fiscal years expiring at the end of the fiscal year in 1952, as in the case of other provinces, or for a number of fiscal years expiring at the end of the fiscal year in 1957, at the option of the Government of the Province of Newfoundland, but if the Government of the Province of Newfoundland accepts the latter option the agreement will provide that the subsequent entry into a tax agreement by the Government of Canada with any other province will not entitle the Government of the Province of Newfoundland to any alteration in the terms of its agreement.

(3) The offer of the Government of Canada to be made under this Term may be accepted by the Government of the Province of Newfoundland within nine months after the date of the offer but if it is not so accepted will thereupon expire.

(4) The Government of the Province of Newfoundland shall not by any agreement entered into pursuant to this Term be required to impose on any person or corporation taxation repugnant to the provisions of any contract entered into with such person or corporation before the date of the agreement and subsisting at the date of the agreement.

(5) If the Province of Newfoundland enters into a tax agreement pursuant to this Term the subsidies payable under Term twenty-six will, as in the case of similar subsidies to other provinces, be included in the computation of tax agreement payments.

Transitional Grants

28. (1) In order to facilitate the adjustment of Newfoundland to the status of a province of Canada and the development by the Province of Newfoundland of revenue-producing services, Canada will pay to the Province of Newfoundland each year during the first twelve years after the date of Union a transitional grant as follows, payment in each year to be made in equal quarterly instalments commencing on the first day of April, namely,

First year	\$6,500,000
Second year	6,500,000
Third year	6,500,000
Fourth year	5,650,000
Fifth year	4,800,000
Sixth year	3,950,000
Seventh year	3,100,000
Eighth year	2,250,000
Ninth year	1,400,000
Tenth year	1,050,000
Eleventh year	700,000
Twelfth year	350,000

(2) The Government of the Province of Newfoundland will have the right to leave on deposit with the Government of Canada any portion of the transitional grant for the first eight years with the right to withdraw all or any portion thereof in any subsequent year and on the thirty-first day of March and the thirtieth day of September in each year to receive in respect of any amounts so left on deposit interest at the rate of two and five-eighths per centum per annum up to a maximum period of ten years from the date of Union on the minimum balance outstanding at any time during the six-month period preceding payment of interest.

Review of Financial Position

29. In view of the difficulty of predicting with sufficient accuracy the financial consequences to Newfoundland of becoming a province of Canada, the Government of Canada will appoint a Royal Commission within eight years from the date of Union to review the financial position of the Province of Newfoundland and to recommend the form and scale of additional financial assistance, if any, that may be required by the Government of the Province of Newfoundland to enable it to continue public services at the levels and standards reached subsequent to the date of Union, without resorting to taxation more burdensome, having regard to capacity to pay, than that obtaining generally in the region comprising the Maritime Provinces of Nova Scotia, New Brunswick, and Prince Edward Island.

MISCELLANEOUS PROVISIONS

Salaries of Lieutenant-Governor and Judges

30. The salary of the Lieutenant-Governor and the salaries, allowances, and pensions of the judges of such superior, district, and county courts as are now or may hereafter be constituted in the Province of Newfoundland shall be fixed and provided by the Parliament of Canada.

Public Services, Works and Property

31. At the date of Union, or as soon thereafter as practicable, Canada will take over the following services and will as from the date of Union relieve the Province of Newfoundland of the public costs incurred in respect of each service taken over, namely,

- (a) the Newfoundland Railway, including steamship and other marine services;
- (b) The Newfoundland Hotel, if requested by the Government of the Province of Newfoundland within six months from the date of Union;
- (c) postal and publicly-owned telecommunication services;
- (d) civil aviation, including Gander Airport;
- (e) customs and excise;
- (f) defence;
- (g) protection and encouragement of fisheries and operation of bait services;
- (h) geological, topographical, geodetic, and hydrographic surveys;
- (i) lighthouses, fog alarms, buoys, beacons, and other public works and services in aid of navigation and shipping;
- (j) marine hospitals, quarantine, and the care of ship-wrecked crews;
- (k) the public radio broadcasting system; and
- (l) other public services similar in kind to those provided at the date of Union for the people of Canada generally.

32. (1) Canada will maintain in accordance with the traffic offering a freight and passenger steamship service between North Sydney and Port

aux Basques, which, on completion of a motor highway between Corner Brook and Port aux Basques, will include suitable provision for the carriage of motor vehicles.

(2) For the purpose of railway rate regulation the Island of Newfoundland will be included in the Maritime region of Canada, and through-traffic moving between North Sydney and Port aux Basques will be treated as all-rail traffic.

(3) All legislation of the Parliament of Canada providing for special rates on traffic moving within, into, or out of, the Maritime region will, as far as appropriate, be made applicable to the Island of Newfoundland.

33. The following public works and property of Newfoundland shall become the property of Canada when the service concerned is taken over by Canada, subject to any trusts existing in respect thereof, and to any interest other than that of Newfoundland in the same, namely,

- (a) the Newfoundland Railway, including rights of way, wharves, drydocks, and other real property, rolling stock, equipment, ships and other personal property;
- (b) the Newfoundland Airport at Gander, including buildings and equipment, together with any other property used for the operation of the Airport;
- (c) the Newfoundland Hotel and equipment;
- (d) public harbours, wharves, break-waters, and aids to navigation;
- (e) bait depots and the motor vessel *Malakoff*;
- (f) military and naval property, stores, and equipment;
- (g) public dredges and vessels except those used for services that remain the responsibility of Newfoundland and except the nine motor vessels known as the Clarenville boats;
- (h) the public telecommunication system, including rights of way, land lines, cables, telephones, radio stations, and other real and personal property;
- (i) real and personal property of the Broadcasting Corporation of Newfoundland; and
- (j) subject to the provisions of Term thirty-four, customs houses, and post-offices and generally all public works and property, real and personal, used primarily for services taken over by Canada.

34. Where at the date of Union any public buildings of Newfoundland included in paragraph (j) of Term thirty-three are used partly for services taken over by Canada and partly for services of the Province of Newfoundland the following provisions shall apply:

- (a) where more than half the floor space of a building is used for services taken over by Canada the building shall become the property of Canada and where more than half the floor space of a building is used for services of the Province of Newfoundland the building shall remain the property of the Province of Newfoundland;
- (b) Canada shall be entitled to rent from the Province of Newfoundland on terms to be mutually agreed such space in the buildings owned by the Province of Newfoundland as is used for the services taken over by Canada and the Province of Newfoundland shall be entitled to rent from Canada on terms to be mutually agreed such space in the buildings owned by Canada as is used for the services of the Province of Newfoundland;
- (c) the division of buildings for the purposes of this Term shall be made by agreement between the Government of Canada and the Government of the Province of Newfoundland as soon as practicable after the date of Union; and
- (d) if the division in accordance with the foregoing provisions results in either Canada or the Province of Newfoundland having a total

ownership that is substantially out of proportion to the total floor space used for its services an adjustment of the division will be made by mutual agreement between the two Governments.

35. Newfoundland public works and property not transferred to Canada by or under these Terms will remain the property of the Province of Newfoundland.

36. Without prejudice to the legislative authority of the Parliament of Canada under the British North America Acts, 1867 to 1946, any works, property, or services taken over by Canada pursuant to these Terms shall thereupon be subject to the legislative authority of the Parliament of Canada.

Natural Resources

37. All lands, mines, minerals, and royalties belonging to Newfoundland at the date of Union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the Province of Newfoundland, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same.

Veterans

38. Canada will make available to Newfoundland veterans the following benefits, on the same basis as they are from time to time available to Canadian veterans, as if the Newfoundland veterans had served in His Majesty's Canadian forces, namely,

- (a) The War Veterans' Allowance Act, 1946, free hospitalization and treatment, and civil service preference will be extended to Newfoundland veterans who served in the First World War or the Second World War or both;
- (b) Canada will assume as from the date of Union the Newfoundland pension liability in respect of the First World War, and in respect of the Second World War Canada will assume as from the date of Union the cost of supplementing disability and dependants' pensions paid by the Government of the United Kingdom or an Allied country to Newfoundland veterans up to the level of the Canadian rates of pensions, and, in addition, Canada will pay pensions arising from disabilities that are pensionable under Canadian law but not pensionable either under the laws of the United Kingdom or under the laws of an Allied country;
- (c) The Veterans' Land Act, 1942, Part IV of the Unemployment Insurance Act, 1940, The Veterans' Business and Professional Loans Act, and The Veterans Insurance Act will be extended to Newfoundland veterans who served in the Second World War;
- (d) a re-establishment credit will be made available to Newfoundland veterans who served in the Second World War equal to the re-establishment credit that might have been made available to them under The War Service Grants Act, 1944, if their service in the Second World War had been service in the Canadian forces, less the amount of any pecuniary benefits of the same nature granted or paid by the Government of any country other than Canada;
- (e) Canada will assume, as from the date of Union, the cost of vocational and educational training of Newfoundland veterans of the Second World War on the same basis as if they had served in His Majesty's Canadian forces; and
- (f) sections six, seven, and eight of The Veterans Rehabilitation Act will be extended to Newfoundland veterans of the Second World War who have not received similar benefits from the Government of any country other than Canada.

Public Servants

39. (1) Employees of the Government of Newfoundland in the services taken over by Canada pursuant to these Terms will be offered employment in these services or in similar Canadian services under the terms and conditions from time to time governing employment in those services, but without reduction in salary or loss of pension rights acquired by reason of service in Newfoundland.

(2) Canada will provide the pensions for such employees so that the employees will not be prejudiced, and the Government of the Province of Newfoundland will reimburse Canada for the pensions for, or at its option make to Canada contributions in respect of, the service of these employees with the Government of Newfoundland prior to the date of Union, but these payments or contributions will be such that the burden on the Government of the Province of Newfoundland in respect of pension rights acquired by reason of service in Newfoundland will not be increased by reason of the transfer.

(3) Pensions of employees of the Government of Newfoundland who were retired on pension before the service concerned is taken over by Canada will remain the responsibility of the Province of Newfoundland.

Welfare and Other Public Services

40. Subject to these Terms, Canada will extend to the Province of Newfoundland, on the same basis and subject to the same terms and conditions as in the case of other provinces of Canada, the welfare and other public services provided from time to time by Canada for the people of Canada generally, which, in addition to the veterans' benefits, unemployment insurance benefits, and merchant seamen benefits set out in Terms thirty-eight, forty-one, and forty-two respectively, include family allowances under The Family Allowances Act, 1944, unemployment insurance under The Unemployment Insurance Act, 1940, sick mariners' benefits for merchant seamen and fishermen under the Canada Shipping Act, 1934, assistance for housing under The National Housing Act, 1944, and, subject to the Province of Newfoundland entering into the necessary agreements or making the necessary contributions, financial assistance under The National Physical Fitness Act for carrying out plans of physical fitness, health grants, and contributions under the Old Age Pensions Act for old age pensions and pensions for the blind.

Unemployment Insurance

41. (1) Subject to this Term, Canada will provide that residents of the Province of Newfoundland in insurable employment who lose their employment within six months prior to the date of Union and are still unemployed at that date, or who lose their employment within a two-year period after that date, will be entitled for a period of six months from the date of Union or six months from the date of unemployment, whichever is the later, to assistance on the same scale and under the same conditions as unemployment insurance benefits.

(2) The rates of payment will be based on the individual's wage record for the three months preceding his loss of employment, and to qualify for assistance a person must have been employed in insurable employment for at least thirty per centum of the working days within the period of three months preceding his loss of employment or thirty per centum of the working days within the period since the date of Union, whichever period is the longer.

Merchant Seamen

42. (1) Canada will make available to Newfoundland merchant seamen who served in the Second World War on British ships or on ships of Allied countries employed in service essential to the prosecution of the

war, the following benefits, on the same basis as they are from time to time available to Canadian merchant seamen, as if they had served on Canadian ships, namely,

- (a) disability and dependants' pensions will be paid, if disability occurred as a result of enemy action or counter-action, including extraordinary marine hazards occasioned by the war, and a Newfoundland merchant seaman in receipt of a pension from the Government of the United Kingdom or an Allied country will be entitled, during residence in Canada, to have his pension raised to the Canadian level; and
 - (b) free hospitalization and treatment, vocational training, The Veterans' Land Act, 1942, and The Veterans Insurance Act will be extended to disability pensioners.
- (2) Vocational training, Part IV of The Unemployment Insurance Act, 1940, and The Veterans Insurance Act will be extended to Newfoundland merchant seamen who were eligible for a Special Bonus or a War Service Bonus, on the same basis as if they were Canadian merchant seamen.
- (3) The Unemployment Insurance Act, 1940, and The Merchant Seamen Compensation Act will be applied to Newfoundland merchant seamen as they are applied to other Canadian merchant seamen.

Citizenship

43. Suitable provision will be made for the extension of the Canadian citizenship laws to the Province of Newfoundland.

Defence Establishments

44. Canada will provide for the maintenance in the Province of Newfoundland of appropriate reserve units of the Canadian defence forces, which will include the Newfoundland Regiment.

Economic Survey

45. (1) Should the Government of the Province of Newfoundland institute an economic survey of the Province of Newfoundland with a view to determining what resources may profitably be developed and what new industries may be established or existing industries expanded, the Government of Canada will make available the services of its technical employees and agencies to assist in the work.

(2) As soon as may be practicable after the date of Union, the Government of Canada will make a special effort to collect and make available statistical and scientific data about the natural resources and economy of the Province of Newfoundland, in order to bring such information up to the standard attained for the other provinces of Canada.

Oleomargarine

46. (1) Oleomargarine or margarine may be manufactured or sold in the Province of Newfoundland after the date of the Union and the Parliament of Canada shall not prohibit or restrict such manufacture or sale except at the request of the Legislature of the Province of Newfoundland, but nothing in this Term shall affect the power of the Parliament of Canada to require compliance with standards of quality applicable throughout Canada.

(2) Unless the Parliament of Canada otherwise provides or unless the sale and manufacture in, and the interprovincial movement between, all provinces of Canada other than Newfoundland, of oleomargarine and margarine, is lawful under the laws of Canada, oleomargarine or margarine shall not be sent, shipped, brought, or carried from the Province of Newfoundland into any other province of Canada.

Income Taxes

47. In order to assist in the transition to payment of income tax on a current basis Canada will provide in respect of persons (including corporations) resident in Newfoundland at the date of Union, who were not resident in Canada in 1949 prior to the date of Union, and in respect of income that under the laws of Canada in force immediately prior to the date of Union was not liable to taxation, as follows:

- (a) that prior to the first day of July, 1949, no payment will be required or deduction made from such income on account of income tax;
- (b) that for income tax purposes no person shall be required to report such income for any period prior to the date of Union;
- (c) that no person shall be liable to Canada for income tax in respect of such income for any period prior to the date of Union; and
- (d) that for individuals an amount of income tax for the 1949 taxation year on income for the period after the date of Union shall be forgiven so that the tax on all earned income and on investment income of not more than \$2,250 will be reduced to one-half the tax that would have been payable for the whole year if the income for the period prior to the date of Union were at the same rate as that subsequent to such date.

Statute of Westminster

48. From and after the date of Union the Statute of Westminster, 1931, shall apply to the Province of Newfoundland as it applies to the other Provinces of Canada.

Saving

49. Nothing in these Terms shall be construed as relieving any person from any obligation with respect to the employment of Newfoundland labour incurred or assumed in return for any concession or privilege granted or conferred by the Government of Newfoundland prior to the date of Union.

Coming into Force

50. These terms are agreed to subject to their being approved by the Parliament of Canada and the Government of Newfoundland; shall take effect notwithstanding the Newfoundland Act, 1933, or any instrument issued pursuant thereto; and shall come into force immediately before the expiration of the thirty-first day of March, 1949, if His Majesty has theretofore given His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same.

Signed in duplicate at Ottawa this eleventh day of December, 1948.

On behalf of Canada:

"LOUIS S. ST. LAURENT"

"BROOKE CLAXTON"

On behalf of Newfoundland:

"ALBERT J. WALSH"

"F. GORDON BRADLEY"

"PHILIP GRUCHY"

"JOHN B. McEVoy"

"JOSEPH R. SMALLWOOD"

"G. A. WINTER"

SCHEDULE

In this Schedule the expression "District" means District as named and delimited in the Act 22 George V, Chapter 7 entitled "An Act to amend Chapter 2 of the Consolidated Statutes of Newfoundland (Third Series) entitled 'Of the House of Assembly'".

Grand Falls-White Bay shall consist of the Districts of White Bay, Green Bay, and Grand Falls, and all the territory within a radius of five miles of the Railway Station at Gander, together with the Coast of Labrador and the Islands adjacent thereto.

Bonavista-Twillingate shall consist of the Districts of Twillingate, Fogo, Bonavista North, and Bonavista South, but shall not include any part of the territory within a radius of five miles from the Railway Station at Gander.

Trinity-Conception shall consist of the Districts of Trinity North, Trinity South, Carbonear-Bay de Verde, Harbour Grace, and Port de Grave.

St. John's East shall consist of the District of Harbour Main-Bell Island and that part of the Province bounded as follows, that is to say: By a line commencing at a point where the centre line of Beck's Cove Hill intersects the North shore of the Harbour of St. John's, thence following the centre line of Beck's Cove Hill to the centre of Duckworth Street, thence westerly along the centre line of Duckworth Street to the centre of Theatre Hill, thence following the centre line of Theatre Hill to the centre of Carter's Hill, thence following the centre line of Carter's Hill and Carter's Street to the centre of Freshwater Road, thence following the centre line of Freshwater Road to its intersection with the centre of Kenmount Road, and thence along the centre line of Kenmount Road to its intersection with the North Eastern boundary of the District of Harbour Main-Bell Island, thence along the said North Eastern boundary of the District of Harbour Main-Bell Island to the shore of Conception Bay and thence following the coastline around Cape St. Francis and on to the Narrows of St. John's Harbour and continuing along by the North Shore of St. John's Harbour to a point on the North shore of the said Harbour intersected by the centre line of Beck's Cove Hill, the point of commencement.

St. John's West shall consist of the Districts of Placentia-St. Mary's and Ferryland, and that part of the Province bounded as follows, that is to say: By a line commencing at the Motion Head of Petty Harbour and running in a straight line to the Northern Goulds Bridge (locally known as Doyle's Bridge) thence following the centre line of Doyle's Road to Short's Road, thence in a straight line to a point one mile west of Quigley's, thence in a straight line to the point where the North Eastern boundary of the District of Harbour Main-Bell Island intersects Kenmount Road, thence along the centre line of Kenmount Road and Freshwater Road to Carter's Street, thence down the centre line of Carter's Street and Carter's Hill to Theatre Hill and thence along the centre line of said Theatre Hill to the centre line of Duckworth Street and thence easterly along the centre line of Duckworth Street to the top of Beck's Cove Hill, thence from the centre line of said Beck's Cove Hill to the shore of St. John's Harbour and thence following the shore of St. John's Harbour and, passing through the Narrows by the North of Fort Amherst and thence following the coastline Southerly to the Motion Head of Petty Harbour, the point of commencement.

Burin-Burgeo shall consist of the Districts of Placentia West, Burin, Fortune Bay-Hermitage, and Burgeo and LaPoile and all the unorganized territory bounded on the North and West by the District of Grand Falls, on the South by the Districts of Burgeo and LaPoile and Fortune Bay-Hermitage, on the East by the Districts of Trinity North, Bonavista South and Bonavista North.

Humber-St. George's shall consist of the Districts of St. George's-Port au Port, Humber, and St. Barbe, and all the unorganized territory bounded on the North by the District of Humber, on the East by the District of Grand Falls, on the South by the District of Burgeo and LaPoile, and on the West by the District of St. George's-Port au Port.

THE STATUTE LAW AMENDMENT (NEWFOUNDLAND) ACT

13 GEORGE VI, CHAPTER 6

An Act to amend the Statute Law

[Assented to 25th March, 1949.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title.

1. This Act may be cited as *The Statute Law Amendment (Newfoundland) Act*.

INTERPRETATION ACT

2. Paragraph twenty-six of section thirty-seven of the *Interpretation Act*, chapter one of the Revised Statutes of Canada, 1927, is amended by adding thereto the following subparagraph:

“(ff) in the province of Newfoundland, the Supreme Court of Newfoundland;”

SAVINGS BANKS ACT

3. Subsection two of section eight of the *Savings Banks Act*, chapter fifteen of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

Conclusive evidence for limited time.

“(2) In order to allow a reasonable time for the receipt of the acknowledgment, the entry by the proper officer in the depositor's book shall also be conclusive evidence of the title, as respects a deposit made in any part of Canada other than the province of British Columbia, Saskatchewan, Alberta or Newfoundland, or the Northwest or Yukon Territories, for ten days from the making of the deposit, and as respects a deposit made in the province of British Columbia, Saskatchewan, Alberta or Newfoundland, or the Northwest or Yukon Territories, for eighteen days from the making of the deposit.”

BOARDS OF TRADE ACT

4. (1) Paragraph (a) of section two of the *Boards of Trade Act*, chapter nineteen of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

“board of trade”

“(a) ‘board of trade’ includes chamber of commerce, and, for the purposes of the appointment of weighers of grain under the provisions of this Act, means any

board of trade or chamber of commerce incorporated under the provisions of any Act of the Parliament of Canada, or of the legislature of the late province of Canada, or of the legislature of any province of Canada; ”

(2) Subparagraph (ii) of paragraph (c) of section two of the said Act is repealed and the following substituted therefor:—

“(ii) in the provinces of Saskatchewan, Alberta and Newfoundland, also any electoral district, as constituted for elections to the legislative assembly for either of the said provinces, within and for which a board of trade is established; ”

In Saskatchew-
an,
Alberta and
Newfound-
land.

(3) Section forty-eight of the said Act is repealed and the following substituted therefor:—

“48. Any existing board of trade heretofore incorporated by or under any Act of the Parliament of Canada, or any Act of the legislature of the former province of Canada, or of any province of Canada, may apply under the provisions of this Part for establishing such board of trade under the provisions of this Part.”

Existing
Boards of
Trade.

CIVIL SERVICE ACT

5. (1) Subparagraphs (ii) to (v) of paragraph (g) of section two of the *Civil Service Act*, chapter twenty-two of the Revised Statutes of Canada, 1927, as enacted by section one of chapter fifty-three of the statutes of 1947, are repealed and the following substituted therefor:

“(ii) during World War II was on active service

(A) in the naval, military or air forces of His Majesty or any of His Majesty’s Allies and at the commencement of his active service was domiciled in Canada or Newfoundland, or

(B) in the naval, military or air forces of Canada, and, not being domiciled in Canada at the commencement of his active service, is a Canadian Citizen,

and who, in the course of such service, performed duties outside of the Western Hemisphere, or on the high seas in a ship or other vessel service in which was, at the time he performed those duties, classed as “sea time” for the purpose of the advancement of naval ratings, or which would have been so classed had the ship or other vessel been in the service of the naval forces of Canada;

(iii) during World War II served as a member of the Women’s Royal Naval Services or as a member

of the South African Military Nursing Service outside of the Western Hemisphere and who, at the commencement of her service during World War II, was domiciled in Canada or Newfoundland;

- (iv) has been certified by the Under Secretary of State for External Affairs as having been enrolled in Canada or Newfoundland by United Kingdom authorities for special duty during World War II in war areas outside of the Western Hemisphere, and who served outside of the Western Hemisphere, and at the time of his enrolment was domiciled in Canada or Newfoundland;
- (v) during World War II served outside of the Western Hemisphere with the naval, military or air forces of His Majesty raised in Canada or Newfoundland as a representative of Canadian Legion War Services Inc., The National Council of the Young Men's Christian Associations of Canada, Knights of Columbus Canadian Army Huts, or Salvation Army Canadian War Services, and who was authorized so to serve by the appropriate naval, military or air force authority and who, at the commencement of his service with those forces during World War II, was domiciled in Canada or Newfoundland;"

(2) Subparagraph (ii) of paragraph (a) of subsection two of section twenty-nine of the said Act, as enacted by chapter fifty-three of the statutes of 1947, is repealed and the following substituted therefor:

Order of merit.

"(ii) by reason of their service only in World War II, and who at the commencement of such service were domiciled in Canada or Newfoundland,"

(3) Subsection one of section thirty-three of the said Act, as enacted by chapter forty of the statutes of 1932, is repealed and the following substituted therefor:

Qualifications.

"33. (1) No person shall, without the authority of the Governor in Council, be admitted to any examination unless he is a natural born or naturalized British subject, and also has been a resident of Canada or Newfoundland for at least five years."

CIVIL SERVICE SUPERANNUATION ACT

6. The *Civil Service Superannuation Act*, chapter twenty-four of the Revised Statutes of Canada, 1927, is amended by adding thereto, immediately after section eleven F thereof, the following section:

Newfoundland Government employees.

"11G. (1) This section applies in respect of a person who was an employee of the Government of Newfoundland in a service that has been taken over by Canada pursuant to the

Terms of Union of Newfoundland with Canada and who became an employee of the Government of Canada pursuant to an offer of employment made in accordance with the Terms of Union.

(2) The Governor in Council, on the recommendation of the Treasury Board, may Regulations.

(a) make regulations to give effect to the Terms of Union of Newfoundland with Canada with respect to persons to whom this section applies or to make applicable to them the provisions of this Act, *mutatis mutandis*, in a like manner as if their employment with the Government of Newfoundland had been employment with the Government of Canada; or

(b) direct that an allowance or gratuity be paid under this Act to a person to whom this section applies where such an allowance or gratuity is payable in accordance with the Terms of Union of Newfoundland with Canada and fix the amount thereof.

(3) Any amount payable to a person to whom this section applies pursuant to this section shall be charged against the Superannuation Account in the Consolidated Revenue Fund, and any amount paid by the Government of Newfoundland to the Government of Canada pursuant to the Terms of Union of Newfoundland with Canada by way of reimbursements for pensions to or as contributions in respect of persons to whom this section applies shall be credited to the Superannuation Account in the Consolidated Revenue Fund.” Amount payable.

CURRENCY ACT

7. The *Currency Act*, chapter forty of the Revised Statutes of Canada, 1927, is amended by adding thereto, immediately after section eleven thereof, the following section:

“11A. (1) Notwithstanding anything in this Act, the gold, silver, copper, bronze or other metal coins struck by authority of the Crown for circulation in Newfoundland on or before the thirty-first day of March, nineteen hundred and forty-nine, shall pass current at their nominal value and shall be deemed to be coins made pursuant to the authority of this Act. Newfoundland coins to be legal tender.

(2) All sums of money payable on or after the first day of April, nineteen hundred and forty-nine, under any Act or law in force in Newfoundland passed before that day or under any obligations incurred before that day and which were intended to be and if Newfoundland had not become a province of Canada would have been payable in the currency of Newfoundland shall on and after that day be represented and payable by equal sums in the currency of Canada.” Obligations in Newfoundland payable in currency of Canada.

CUSTOMS ACT

Repeal. **8.** Paragraph (j) of section two hundred and eighty-four of the *Customs Act*, chapter forty-two of the Revised Statutes of Canada, 1927, is repealed.

CUSTOMS AND FISHERIES PROTECTION ACT

9. Subsection one of section three of the *Customs and Fisheries Protection Act*, chapter forty-three of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

Licences
to fishing
vessels to
enter ports.

“3. (1) The Governor in Council may, from time to time, authorize the issue of licences to

(a) United States fishing vessels, enabling them to enter any port on the Atlantic coast of Canada, and

(b) any fishing vessels, enabling them to enter any port in the province of Newfoundland,

during the periods mentioned in such licences, for the purposes of

(c) the purchase of bait, ice, seines, lines and all other supplies and outfits; and

(d) the transshipment of catch, and the shipping of crews.”

CUSTOMS TARIFF

Section
repealed.

10. Section eight of the *Customs Tariff*, chapter forty-four of the Revised Statutes of Canada, 1927, is repealed.

DOMINION CONTROVERTED ELECTIONS ACT

11. Paragraph (d) of subsection one of section two of the *Dominion Controverted Elections Act*, chapter fifty of the Revised Statutes of Canada, 1927, is amended by adding thereto, immediately after subparagraph (ix) thereof, the following paragraph:

“Court.”

“(ixa) In the province of Newfoundland, the Supreme Court of Newfoundland;

EXPERIMENTAL FARM STATIONS ACT

Establish-
ment of
experimental
farm
stations.

12. Subsection one of section three of the *Experimental Farm Stations Act*, chapter sixty-one of the Revised Statutes of Canada, 1927, is amended by adding thereto the following paragraph:

“(f) the province of Newfoundland.”

MARITIME FREIGHT RATES ACT

Application
to New-
foundland.

13. (1) Subject to this section, the *Maritime Freight Rates Act*, chapter seventy-nine of the Revised Statutes of Canada, 1927, applies *mutatis mutandis* to all lines of railway in the Island of Newfoundland that are subject to the legislative authority of the Parliament of Canada.

(2) For the purposes of the said Act the lines of railway situated within the Island of Newfoundland, including the steamship services between Port aux Basques and North Sydney, that are entrusted to the Canadian National Railway Company for management and operation shall from the date of and during the period of such entrustment be deemed to be included in the lines of railway collectively designated as the "Eastern lines", the Island of Newfoundland shall be deemed to be included in the expression "select territory" and through traffic moving by water between Port aux Basques and North Sydney shall be treated as all rail traffic.

Lines of
railway.

(3) Upon entrustment to Canadian National Railway Company of the lines of railway mentioned in subsection two, Canadian National Railway Company shall forthwith file with The Board of Transport Commissioners for Canada tariffs of tolls applicable to the carriage of traffic within, to and from the Island of Newfoundland and such tariffs, in so far as preferred movements are concerned, shall comply as far as appropriate with the provisions of the said Act.

Tariffs
of tolls.

(4) Notwithstanding the provisions of sections three hundred and thirty, three hundred and thirty-one, three hundred and thirty-four and three hundred and thirty-five of the *Railway Act*, the tariffs initially filed under subsection three shall be effective from the date of entrustment.

When
tariffs
effective.

R.S., c. 170.

FUGITIVE OFFENDERS ACT

14. Paragraph (a) of section two of the *Fugitive Offenders Act*, chapter eighty-one of the Revised Statutes of Canada, 1927, is amended by adding thereto, immediately after the words "the Supreme Court of Alberta" the following:

"in the province of Newfoundland, the Supreme Court of Newfoundland,"

"Court"
defined.

IMMIGRATION ACT

15. For the purposes of the *Immigration Act*, chapter ninety-three of the Revised Statutes of Canada, 1927, domicile in Newfoundland prior to the first day of April, nineteen hundred and forty-nine, shall be deemed to be domicile in Canada, and the expressions "land" and "enter" include lawful admission into Newfoundland under the laws of Newfoundland.

Domicile.

LEPROSY ACT

16. Paragraph (c) of section eleven of the *Leprosy Act*, chapter one hundred and nineteen of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

"(c) in the province of Saskatchewan, Alberta or Newfoundland, before a judge of a superior court;"

Before whom
information
laid.

LIVE STOCK SHIPPING ACT

17. Paragraph (e) of section two of the *Live Stock Shipping Act*, chapter one hundred and twenty-two of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

"Ship
carrying
live stock."

"(e) 'ship carrying live stock' means any ship employed in carrying live stock from any port or place in Canada to any port or place out of Canada, not being a port or place in the United States of America, St. Pierre or Miquelon, Bermuda, the West Indian Islands, Mexico, or South America."

MILITIA PENSION ACT

18. Section fifty-three of the *Militia Pension Act*, chapter one hundred and thirty-three of the Revised Statutes of Canada, 1927, is amended by adding thereto, immediately after paragraph (g) thereof, the following paragraph:

Service
included.

"(gg) providing that service in any of the forces of Newfoundland and service prior to the first day of April, nineteen hundred and forty-nine, with the Government of Newfoundland may be included for the purpose of making contributions and of computing pensions, allowances and gratuities under this Act;"

OLD AGE PENSIONS ACT

Residence
defined.

19. For the purposes of the *Old Age Pensions Act*, chapter one hundred and fifty-six of the Revised Statutes of Canada, 1927, residence and presence in Newfoundland shall respectively be deemed to be residence and presence in Canada.

PENSION ACT

Domicile.

20. (1) For the purposes of sections forty-five, forty-six and forty-six A of the *Pension Act*, chapter one hundred and fifty-seven of the Revised Statutes of Canada, 1927, domicile in Newfoundland shall be deemed to be domicile in Canada.

Personnel
deemed
members
of forces.

(2) A member of the naval or military forces of Newfoundland in World War I or World War II shall be deemed to be a member of the forces for the purposes of section eleven of the *Pension Act*.

British
subject
resident and
domiciled
in New-
foundland
etc. deemed
member of
the forces.

(3) A British subject resident and domiciled in Newfoundland at the time of enlistment who served in the naval, military or air forces of His Majesty or in any of the naval, military or air forces of any of the countries allied with His Majesty during World War II shall be deemed to be a member of the forces for the purposes of section eleven of the *Pension Act*, if the disability in respect of which the application for pension is made is not pensionable by virtue of subsection one or two of this section.

ROYAL CANADIAN MOUNTED POLICE ACT

21. Subparagraphs (i) and (ii) of paragraph (j) of subsection one of section ninety-one of the *Royal Canadian Mounted Police Act*, chapter one hundred and sixty of the Revised Statutes of Canada, 1927, as enacted by section ten of chapter twenty-eight of the statutes of 1947-48, are repealed and the following substituted therefor:

- “(j) ‘service’ means time served in the Force and includes “service.”
for the purpose of making contributions under this Part and of computing pensions, allowances or gratuities
(i) time served in the Civil Service or the permanent naval, military or air forces of Canada or Newfoundland;
(ii) time served on active service in the naval, military or air forces of His Majesty raised in Canada or Newfoundland during time of war; and”

EXCISE TAX ACT

22. (1) Section one hundred and three A of the *Excise Tax Act*, chapter one hundred and seventy-nine of the Revised Statutes of Canada, 1927, does not apply in respect of exported goods in customs bonded or sufferance warehouses in Newfoundland on the first day of April, nineteen hundred and forty-nine, or in transit from Canada to Newfoundland on or before the first day of March, nineteen hundred and forty-nine, for which no entry for consumption in Newfoundland has been passed before the said first day of April. Non-application of tax on certain goods.

(2) Paragraph (a) of section thirteen of the said Act, as enacted by section one of chapter fifty-four of the statutes of 1932, is repealed and the following substituted therefor:

- “(a) ‘British company’ means any corporation incorporated under the laws of the United Kingdom of Great Britain and Northern Ireland or any British Dominion or possession other than Canada, Newfoundland or a province of Canada, for the purpose of carrying on the business of insurance, and includes any association of persons formed in the said Kingdom or in any such Dominion or possession on the plan known as Lloyds whereby each associate underwriter becomes liable for a stated, limited or proportionate part of the whole amount insured by a policy;” “British company.”

SALARIES ACT

23. Section three of the *Salaries Act*, chapter one hundred and eighty-two of the Revised Statutes of Canada, 1927, as enacted by section one of chapter sixty-eight of the statutes of 1947-48, is amended by adding thereto the following: Salary.

“The Lieutenant-Governor of Newfoundland 9,000”

WINDING-UP ACT

24. (1) Paragraph (d) of section two of the *Winding-up Act*, chapter two hundred and thirteen of the Revised Statutes of Canada, 1927, is amended by adding thereto, immediately after subparagraph (ix) thereof, the following subparagraph:

“(ixa) in the province of Newfoundland, the Supreme Court,”

(2) Section six of the said Act is repealed and the following substituted therefor:

Application.

“6. This Act applies to all corporations incorporated by or under the authority of an Act of the Parliament of Canada, or by or under the authority of any Act of the late province of Canada, or of the province of Nova Scotia, New Brunswick, British Columbia, Prince Edward Island or Newfoundland, and whose incorporation and the affairs whereof are subject to the legislative authority of the Parliament of Canada; and also to incorporated banks, savings banks, incorporated insurance companies, loan companies having borrowing powers, building societies having a capital stock, and incorporated trading companies doing business in Canada wheresoever incorporated and,

(a) which are insolvent; or

(b) which are in liquidation or in process of being wound up, and, on petition by any of their shareholders or creditors, assignees or liquidators ask to be brought under the provisions of this Act.”

THE JUVENILE DELINQUENTS ACT, 1929

25. Paragraph (j) of section two of *The Juvenile Delinquents Act, 1929*, chapter forty-six of the statutes of 1929, is amended by adding thereto, immediately after the words “Supreme Court of Alberta” the following:

“in the Province of Newfoundland, a Judge of the Supreme Court of Newfoundland;”

THE UNFAIR COMPETITION ACT, 1932

26. *The Unfair Competition Act, 1932*, chapter thirty-eight of the statutes of 1932, is amended by adding thereto, immediately after section sixty thereof, the following section:

60A. (1) The registration of a trade mark under the laws of Newfoundland prior to the first day of April, nineteen hundred and forty-nine, shall have the same force and effect in the Province of Newfoundland as if Newfoundland had not become part of Canada, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in the Province of Newfoundland as if Newfoundland had not become part of Canada.

Registra-
tions in
Newfound-
land.

(2) The laws of Newfoundland as they existed immediately prior to the expiration of the thirty-first day of March, nineteen hundred and forty-nine, shall continue to apply in respect of applications for the registration of trade marks under the laws of Newfoundland pending at that time and any trade marks registered under such applications shall, for the purposes of this section, be deemed to have been registered under the laws of Newfoundland prior to the first day of April, nineteen hundred and forty-nine."

Laws of Newfoundland applicable.

THE FISHERIES ACT, 1932

27. In its application to the coasts of Newfoundland subsection three of section fifty-six of *The Fisheries Act, 1932*, chapter forty-two of the statutes of 1932, shall be construed as if the words "three miles" were substituted for the words "twelve miles".

"Three miles" for "twelve miles", limit.

THE CANADIAN AND BRITISH INSURANCE COMPANIES ACT, 1932

28. (1) Paragraph (b) of subsection one of section two of *The Canadian and British Insurance Companies Act, 1932*, chapter forty-six of the statutes of 1932, as enacted by section two of chapter twenty-seven of the statutes of 1934, is repealed and the following substituted therefor:

"(b) 'British company' means any corporation incorporated under the laws of the United Kingdom of Great Britain and Northern Ireland or any British Dominion or possession other than Canada, Newfoundland or a province of Canada, for the purpose of carrying on the business of insurance;"

"British company."

(2) Paragraphs (l) and (m) of subsection one of section two of the said Act, as re-lettered by section two of chapter twenty-seven of the statutes of 1934, are repealed and the following substituted therefor:

"(l) 'policy in Canada' as regards life insurance, means any policy issued or effected by a company registered under this Act upon the life of any person resident in Canada or Newfoundland at the time such policy was issued or effected; and, as regards fire insurance, means any policy issued or effected by such a company upon any property within Canada or Newfoundland; and, as regards any other class of insurance, means any policy issued or effected by such a company in the transaction of its business of insurance in Canada or Newfoundland;

"policy in Canada."

(m) 'provincial company' means a company incorporated under the laws of any province of Canada, of Newfoundland or of any former province of British North America now forming part of Canada other than the late Province of Canada for the purpose of carrying on the business of insurance;"

"provincial company."

THE FOREIGN INSURANCE COMPANIES ACT, 1932

29. Paragraph (p) of subsection one of section two of *The Foreign Insurance Companies Act, 1932*, chapter forty-seven of the statutes of 1932, is repealed and the following substituted therefor:

“policy in
Canada.”

“(p) ‘policy in Canada’, as regards life insurance, means any policy issued or effected by a company registered under this Act upon the life of any person resident in Canada or Newfoundland at the time such policy was issued or effected; and, as regards fire insurance, means any policy issued or effected by such a company upon any property within Canada or Newfoundland; and, as regards any other class of insurance, means any policy issued or effected by such a company in the transaction of its business of insurance in Canada or Newfoundland;”

THE COMPANIES’ CREDITORS ARRANGEMENT ACT, 1933

30. Paragraph (a) of section two of *The Companies’ Creditors Arrangement Act, 1933*, chapter thirty-six of the statutes of 1932-33, is repealed and the following substituted therefor:

“Court.”

“(a) “Court” means in Ontario, the Supreme Court; in Quebec, the Superior Court; in Nova Scotia, New Brunswick, British Columbia, Prince Edward Island, Alberta and Newfoundland, the Supreme Court for each of those provinces; in Manitoba, the Court of King’s Bench; in Saskatchewan, the Court of King’s Bench; and in the Yukon Territory, the Territorial Court;”

THE COMPANIES ACT, 1934

31. Paragraph (d) of section three of *The Companies Act, 1934*, chapter thirty-three of the statutes of 1934, is repealed and the following substituted therefor:

“court.”

“(d) “court” means in Ontario, the Supreme Court; in Quebec, the Superior Court; in Nova Scotia, New Brunswick, British Columbia, Prince Edward Island, Alberta and Newfoundland, the Supreme Court in and for each of those provinces, respectively; in Manitoba, the Court of King’s Bench; in Saskatchewan, the Court of King’s Bench; and in the Yukon Territory, the Territorial Court;”

BANK OF CANADA ACT

32. (1) Subsection one of section five of the *Bank of Canada Act*, chapter forty-three of the statutes of 1934, as enacted by the *Bank of Canada Act Amendment Act, 1938*,

chapter forty-two of the statutes of 1938, is repealed and the following substituted therefor:

"5. (1) The Bank shall be under the management of a Board of Directors composed of a Governor, a Deputy Governor and twelve directors appointed in accordance with the provisions of this Act. There may also be an Assistant Deputy Governor who shall not as such be a member of the Board.

Board of
Directors.

(2) Subsection one of section nine of the said Act, as enacted by the said *Bank of Canada Act Amendment Act, 1938*, is repealed and the following substituted therefor:

"9. (1) The Minister with the approval of the Governor in Council shall as of the first day of March in each year appoint for terms of three years each a sufficient number of directors to provide that there shall be twelve directors: Provided that one director shall be appointed forthwith upon the coming into force of this subsection for a term of office expiring on the last day of February, nineteen hundred and fifty-one."

Directors.

Proviso.

CANADA SHIPPING ACT, 1934

33. (1) *The Canada Shipping Act, 1934*, chapter forty-four of the statutes of 1934, is amended by adding thereto, immediately after section one hundred and eighteen thereof, the following sections:

"118A. (1) Every British subject who immediately prior to the expiration of the thirty-first day of March, nineteen hundred and forty-nine, held a certificate of competency as master or mate of a foreign-going or home-trade ship valid under the laws of Newfoundland is entitled upon the surrender of the certificate to receive a certificate of competency granted under this Part as master or mate of a foreign-going or home-trade ship, as the case may be.

Newfound-
land masters
and mates
entitled to
certificates.

(2) Subject to such conditions as the Minister may impose, a certificate granted under the laws of Newfoundland as master or mate of a foreign-going or home-trade ship may be accepted in lieu of a certificate as master or mate granted under this Part and may be suspended or cancelled by the Minister under like conditions as in the case of a certificate issued under this Part."

Newfound-
land
certificates
may be
accepted in
lieu of
certificates
under this
Part.

"118B. Every British subject who immediately prior to the expiration of the thirty-first day of March, nineteen hundred and forty-nine, was a resident of Newfoundland and who

Require-
ments for
Newfound-
land
residents for
certificates.

- (a) served as master or mate of a foreign-going or home-trade ship of over ten tons, gross tonnage, before that date for a full period of twelve months within the five years immediately preceding the date of his application for a certificate of service;

(b) produces satisfactory evidence of his sobriety, experience, ability and general good conduct on board ship; and

(c) passes the prescribed examination;

is entitled, according to his service and the waters served in, to either a foreign-going or home-trade certificate of service as master or mate of a steamship or a sailing ship, as the case may be, exceeding ten tons, gross tonnage."

(2) The portion of subsection one of section three hundred and five of the said Act, as enacted by section one of chapter six of the statutes of 1938, that precedes paragraph (a) thereof, is repealed and the following substituted therefor:

Duty on all
vessels
unless
exempted.

"**305.** (1) There shall be levied and collected on every ship arriving in any port in the provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island, British Columbia or Newfoundland or in any port on Hudson Bay or James Bay in the provinces of Manitoba or Ontario, hereinafter called 'the said provinces', a duty of two cents for every ton which such ship measures, register tonnage: Provided that such duty shall not be levied or collected on".

THE EXCISE ACT, 1934

Duty to be
levied on
certain
goods.

34. (1) Any goods mentioned in subsection one of section fifty-seven of *The Excise Act, 1934*, chapter fifty-two of the statutes of 1934, as enacted by section two of chapter forty-eight of the statutes of 1946, that were exported in bond to Newfoundland before the first day of April, nineteen hundred and forty-nine, and

(a) are in customs bonded or sufferance warehouses in Newfoundland on the said first day of April; or

(b) are in transit from Canada to Newfoundland on or before the thirty-first day of March, nineteen hundred and forty-nine;

shall be deemed to be goods in warehouse under the said Act and are liable to the duties imposed by the Schedule to that Act, and the full amount of such duties accruing upon such goods shall be paid before the goods are removed from warehouse for consumption.

Collection
of duties.

(2) The duties imposed by subsection two of section one hundred and seventy-five of the said Act and by the Schedule to the said Act shall be levied and collected upon all malt that is in any customs bonded or sufferance warehouse or brewery in Newfoundland on the first day of April, nineteen hundred and forty-nine.

THE PATENT ACT, 1935

35. *The Patent Act, 1935*, chapter thirty-two of the statutes of 1935, is amended by adding thereto, immediately after section seventy-seven thereof, the following heading and section:

"NEWFOUNDLAND PATENTS

"77A. (1) Patents issued under the laws of Newfoundland prior to the first day of April, nineteen hundred and forty-nine, shall be deemed to have been issued under the laws of Canada, as of the date and for the term thereof.

Patents
issued in
Newfound-
land.

(2) In the event of conflict between patents issued under the laws of Newfoundland prior to the first day of April, nineteen hundred and forty-nine, and patents issued under the laws of Canada prior to that date

Conflicting
patents.

(a) the patents issued under the laws of Newfoundland shall have the same force and effect in the Province of Newfoundland as if Newfoundland had not become part of Canada, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in the Province of Newfoundland as if Newfoundland had not become part of Canada; and

(b) the patents issued under the laws of Canada shall have the same force and effect in any part of Canada other than the Province of Newfoundland as if Newfoundland had not become part of Canada, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in any part of Canada other than the Province of Newfoundland as if Newfoundland had not become part of Canada.

(3) The laws of Newfoundland as they existed immediately prior to the expiration of the thirty-first day of March, nineteen hundred and forty-nine, shall continue to apply in respect of applications for patents under the laws of Newfoundland pending at that time, and any patents issued upon such applications shall, for the purposes of this section, be deemed to have been issued under the laws of Newfoundland prior to the first day of April, nineteen hundred and forty-nine; and patents issued under the laws of Canada upon applications pending immediately prior to the expiration of the said thirty-first day of March shall, for the purposes of this section, be deemed to have been issued under the laws of Canada prior to the said first day of April.

Application
of New-
foundland
laws.

(4) No claims for infringement of a patent issued in Canada prior to the first day of April, nineteen hundred and forty-nine, shall be entertained by any court against any person for anything done in Newfoundland prior to that date in respect of the

Claims for
infringe-
ment.

invention protected by such patent, and no claims for infringement of a patent issued in Newfoundland prior to that date shall be entertained by any court against any person for anything done in Canada prior to that date in respect of the invention protected by such patent."

THE TRANSPORT ACT, 1938

36. (1) Paragraph (i) subsection one of section two of *The Transport Act, 1938*, chapter fifty-three of the statutes of 1938, is repealed and the following substituted therefor:

"Maritime
Provinces."

"(i) "Maritime Provinces" means the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland;"

(2) Paragraph (b) of subsection four of section twelve of the said Act is repealed and the following substituted therefor:

Not applica-
ble to
ships plying
between
certain
ports.

"(b) between ports or places in Hudson Bay, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland, and the Gulf and River St. Lawrence east of the western point of the Island of Orleans, or between any two or more places therein;"

THE PENITENTIARY ACT, 1939

Place of
imprison-
ment.

37. (1) Notwithstanding anything in *The Penitentiary Act, 1939*, chapter six of the statutes of 1939, every person who is sentenced by any court in Newfoundland to imprisonment for life, or for a term of years, not less than two, shall be sentenced to imprisonment in the penitentiary operated by the province of Newfoundland at the City of St. John's for the confinement of prisoners, and shall be subject to the statutes, rules, regulations and other laws pertaining to the management and control of the said penitentiary.

Agreement
to pay
maintenance
costs.

(2) Subject to the approval of the Governor in Council, the Minister of Justice may enter into an agreement with the province of Newfoundland providing for the payment to the province of the cost of maintaining persons who are or have been sentenced to imprisonment for life, or for a term of years, not less than two.

THE UNEMPLOYMENT INSURANCE ACT, 1940

38. For the purposes of Part IV of *The Unemployment Insurance Act, 1940*, chapter forty-four of the statutes of 1940, as enacted by section twenty-four of chapter sixty-eight of the statutes of 1946,

Newfound-
land
veterans.

(a) active service by a person in any of the naval or military forces of Newfoundland, or by a person who was recruited in Newfoundland in any naval, military or air

forces raised in Newfoundland by or on behalf of the United Kingdom, shall be deemed to be active service in the Canadian forces;

- (b) residence and domicile in Newfoundland shall respectively be deemed to be residence and domicile in Canada.

THE VETERANS' LAND ACT, 1942

39. For the purposes of *The Veterans' Land Act, 1942*, chapter thirty-three of the statutes of 1942, the expression "naval, military or air force of Canada" includes any of the naval or military forces of Newfoundland, and domicile or residence in Newfoundland shall be deemed to be domicile or residence in Canada, but any benefits that would otherwise be available to a member of the forces of Newfoundland under section nine or section thirty-five of that Act shall be reduced by the amount of similar benefits that he may have received from a government other than that of Canada.

Newfoundland
land
veterans.

Domicile.

THE NATIONAL PHYSICAL FITNESS ACT

40. The sum of two hundred and twenty-five thousand dollars specified in section seven of *The National Physical Fitness Act*, chapter twenty-nine of the statutes of 1943-44, is increased to two hundred and thirty-two thousand dollars and for the purposes of the said section the population of Newfoundland shall be included in the population of Canada and shall be taken at three hundred and twenty-five thousand until the first decennial census after the first day of April, nineteen hundred and forty-nine.

Financial
assistance
to New-
foundland.

THE FAMILY ALLOWANCES ACT, 1944

41. For the purposes of *The Family Allowances Act, 1944*, chapter forty of the statutes of 1944-45,

- (a) a child in Newfoundland in respect of whom an application for registration has been received and approved as prescribed by regulations to be made by the Governor in Council for Newfoundland, prior to the first day of April, nineteen hundred and forty-nine, shall be deemed to have been registered immediately prior to the expiration of the thirty-first day of March, nineteen hundred and forty-nine;
- (b) birth, residence and domicile in Newfoundland shall respectively be deemed to be birth, residence and domicile in Canada; and
- (c) the expression "Naval, Military or Air Forces of Canada" includes any of the naval or military forces of Newfoundland.

Application
to children
born in
Newfound-
land.

THE FISHERIES PRICES SUPPORT ACT, 1944

42. Subsection one of section three of *The Fisheries Prices Support Act, 1944*, chapter forty-two of the statutes of 1944-45, is repealed and the following substituted therefor:

Fisheries
Prices
Support
Board.

"3. (1) There shall be, under the direction of the Minister, a Fisheries Prices Support Board consisting of not more than six members, including a chairman and a vice-chairman, to be appointed by the Governor in Council and who shall hold office during pleasure."

THE NATIONAL HOUSING ACT, 1944

Newfound-
land
veterans.

43. A person who served on active service

- (i) in any of the naval or military forces of Newfoundland or, having been recruited in Newfoundland, in any of the naval, military or air forces raised in Newfoundland by or on behalf of the United Kingdom, or
- (ii) in any other naval, military or air forces of His Majesty and at the time of his enlistment therein was domiciled in Newfoundland,

shall be deemed to be a veteran for the purposes of section four B of *The National Housing Act, 1944*, chapter forty-six of the statutes of 1944-45.

THE VETERANS INSURANCE ACT

Newfound-
land
veterans.

44. For the purposes of subparagraph (i) of paragraph (j) of section two of *The Veterans Insurance Act*, chapter forty-nine of the statutes of 1944-45, service by a person in the naval or military forces of Newfoundland and service by a person recruited in Newfoundland in any naval, military or air forces raised in Newfoundland by or on behalf of the United Kingdom, shall be deemed to be service in the naval, military or air forces of Canada and, for the purposes of subparagraph (ii) of that paragraph, domicile in Newfoundland shall be deemed to be domicile in Canada.

THE WAR SERVICE GRANTS ACT, 1944, AND
THE VETERANS REHABILITATION ACT

Re-establish-
ment
Credits to
Newfound-
land
veterans.

45. (1) Subject to the provisions of *The War Service Grants Act, 1944*, chapter fifty-one of the statutes of 1944-45, every Newfoundland veteran who does not elect to take benefits under *The Veterans' Land Act, 1942*, except section thirteen thereof, or any educational, vocational or technical training benefits under the provisions of *The Veterans Rehabilitation Act* shall, in order to assist in his re-establishment, be eligible for a re-establishment credit equal to the re-establishment credit that might have been made available to him under *The War Service Grants Act, 1944* if he had been a member of the

forces as therein defined, less the amount of any pecuniary benefits of the same nature granted or paid by the government of any country other than that of Canada.

(2) For the purposes of sections six, seven, eight and nine of *The Veterans Rehabilitation Act*, chapter thirty-five of the statutes of 1945, a Newfoundland veteran who has been discharged shall be deemed to be a veteran as defined in that Act.

Newfoundland
land
veterans.

(3) In this section the expression "Newfoundland veteran" means a person who served on active service

"Newfoundland
land
veteran."

(a) in any of the naval or military forces of Newfoundland or having been recruited in Newfoundland in any of the naval, military or air forces raised in Newfoundland by or on behalf of the United Kingdom; or

(b) in any other naval, military, or air forces of His Majesty and at the time of his enlistment therein was domiciled in Newfoundland; or

(c) in any of the naval, military or air forces of the nations allied with His Majesty in active operations against the enemy in World War II, if he was domiciled in Newfoundland at the time of his enlistment therein and was domiciled and resident in Newfoundland within two years from the date of his discharge therefrom or the eighth day of May, nineteen hundred and forty-five, whichever is the later.

THE CANADIAN CITIZENSHIP ACT

46. *The Canadian Citizenship Act*, chapter fifteen of the statutes of 1946, is amended by adding thereto, immediately after section forty-four thereof, the following section:

"44A. (1) A person who was a British subject on the first day of April, nineteen hundred and forty-nine and

British
subjects
born,
naturalized
or domiciled
in New-
foundland.

(i) was born in Newfoundland;

(ii) was naturalized under the laws of Newfoundland;
or

(iii) had Newfoundland domicile on the said first day of April;

is a Canadian citizen.

(2) A person who is a Canadian citizen by virtue of paragraph (i) of subsection one is a natural born Canadian citizen.

Natural
born
Canadian
citizen.

(3) A person who is a Canadian citizen by virtue of paragraph (ii) of subsection one shall be deemed to have been naturalized under the laws of Canada, and a certificate of naturalization issued under the laws of Newfoundland shall be deemed to have been issued under the laws of Canada at the date thereof.

Deemed
naturalized
under laws
of Canada.

Canadian
citizenship
on day he
acquired
Newfound-
land
domicile.

(4) A person who is a Canadian citizen by virtue of paragraph (iii) of subsection one, shall be deemed to have become a Canadian citizen on the day he acquired Newfoundland domicile.

Newfound-
land
residence
deemed
residence in
Canada.

(5) For the purposes of this Act, residence in Newfoundland, shall be deemed to be residence in Canada and Newfoundland domicile means domicile in Newfoundland for at least five years."

THE CIVILIAN WAR PENSIONS AND ALLOWANCES ACT

Person
deemed a
Canadian
national.

47. For the purposes of Part I of *The Civilian War Pensions and Allowances Act*, chapter forty-three of the statutes of 1946, a person who served upon a certified non-Canadian ship and at the time he entered such service was domiciled in Newfoundland shall be deemed to be a Canadian national, and a ship engaged in the fishing industry of Newfoundland in Newfoundland tidal waters shall be deemed to be a ship engaged in the fishing industry of Canada in Canadian tidal waters.

Newfound-
land
fishing ship.

THE EXPLOSIVES ACT, 1946

Newfound-
land
licences
valid.

48. A licence or permit issued under the Act of Newfoundland relating to the manufacture, storage, importation and sale of explosives, chapter fifty-four of the Consolidated Statutes of Newfoundland, 1916, shall be deemed to be a licence or permit issued under *The Explosives Act, 1946*, chapter seven of the statutes of 1946, for the purposes stated in the licence or permit, as the case may be.

THE VETERANS' BUSINESS AND PROFESSIONAL LOANS ACT

Newfound-
land
veterans.

49. A person who served on active service

- (i) in any of the naval or military forces of Newfoundland or, having been recruited in Newfoundland, in any of the naval, military or air forces raised in Newfoundland by or on behalf of the United Kingdom; or
- (ii) in any other naval, military or air forces of His Majesty and at the time of his enlistment therein was domiciled in Newfoundland;

and is resident and domiciled in Canada, has not elected to take benefits under *The Veterans' Land Act, 1942*, and who would have been eligible for a gratuity under *The War Service Grants Act, 1944*, if such service had been service in the Canadian forces,

shall be deemed to be a veteran for the purposes of *The Veterans' Business and Professional Loans Act*, chapter sixty-nine of the statutes of 1946.

THE WAR VETERANS ALLOWANCE ACT, 1946

50. For the purposes of paragraphs (b) and (c) of section four and section nine of *The War Veterans Allowance Act, 1946*, chapter seventy-five of the statutes of 1946, His Majesty's Canadian forces include His Majesty's forces raised in Newfoundland, and for the purposes of paragraph (d) of section four and paragraph (b) of section nine of the said Act domicile in Newfoundland shall be deemed to be domicile in Canada. Newfoundland
land
veterans.

THE JUDGES ACT, 1946

51. (1) Section six of *The Judges Act, 1946*, chapter fifty-six of the statutes of 1946, is amended by adding thereto the following:

"Three District Judges of the Admiralty
District of Newfoundland, each333.33" Salary.

(2) The said Act is further amended by adding thereto, immediately after section sixteen thereof, the following section:

"16A. The salaries of the judges of the Supreme Court of Newfoundland are as follows: Salaries.

	Per annum
(a) The Chief Justice	\$13,333.33
(b) Two other Judges	12,000.00"

(3) A judge of the Supreme Court of Newfoundland may make an election under section twenty-six of the said Act on or before the thirtieth day of June, nineteen hundred and forty-nine. Right of
election.

(4) For the purposes of sections twenty-two to twenty-eight of the said Act, the period during which a judge of the Supreme Court of the Province of Newfoundland held office as a judge of the Supreme Court of Newfoundland prior to the first day of April, nineteen hundred and forty-nine, shall be included in calculating the period during which he continued in office as a judge of a superior court." Prior
service
may be
counted.

THE REPRESENTATION ACT, 1947

52. The representation in the House of Commons provided for by Term four of the Terms of Union of Newfoundland with Canada shall be added to the representation provided for in section two of *The Representation Act, 1947*, chapter seventy-one of the statutes of 1947, and the Schedule to the said Terms of Union shall be added to the Schedule to the said Act. Newfoundland
land
Represent-
tation.

THE EMERGENCY EXCHANGE CONSERVATION ACT

Bringing
certain
goods from
Newfound-
land to
other
provinces
deemed to
be importa-
tion.

53. (1) For the purposes of *The Emergency Exchange Conservation Act*, chapter seven of the statutes of 1947-48, as amended by chapter forty-eight of the statutes of 1947-48, during the period of twelve months beginning on the first day of April, nineteen hundred and forty-nine, the bringing of goods listed in Schedule I, II or III of that Act, that had been imported into Newfoundland before that day and are not the growth, produce or manufacture of Newfoundland, from the Province of Newfoundland into any other province is deemed to be an importation of those goods into that province from the country of which the goods are the growth, produce or manufacture; and no person shall so bring or attempt so to bring any such goods into any such other province except in accordance with a permit issued under that Act, in a like manner and subject to like conditions as if they were imported from that country.

Regulations.

(2) The Governor in Council may make regulations to give effect to subsection one.

Coming
into force.

54. This Act shall come into force immediately prior to the expiration of the thirty-first day of March, nineteen hundred and forty-nine.

AN ACT TO BRING THE CRIMINAL CODE AND THE CANADA EVIDENCE ACT INTO FORCE IN NEWFOUNDLAND

14 GEORGE VI, CHAPTER 12

An Act to bring the Criminal Code and the Canada Evidence Act into force in Newfoundland

[Assented to 1st June, 1950.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The *Criminal Code*, chapter thirty-six of the Revised Statutes of Canada, 1927, and the *Canada Evidence Act*, chapter fifty-nine of the Revised Statutes of Canada, 1927, shall come into force in Newfoundland on the day this Act comes into force.

Coming into
force of
*Criminal
Code* and
*Canada
Evidence
Act*.

2. Subject to the provisions of this Act, the Newfoundland enactments set out in the Schedule, to the extent indicated in the third column of the Schedule, and all laws that are in force in Newfoundland at the time of the coming into force of this Act and are inconsistent with or repugnant to the *Criminal Code*, are repealed and abolished.

Certain
enactments
and laws
repealed and
abolished.

3. (1) Every offence against any enactment or law repealed or abolished by this Act that was wholly or partly committed before the coming into force of this Act, may be dealt with, inquired into, tried and determined, and any penalty, forfeiture or punishment in respect of that offence may be imposed, as if the enactment or law had not been repealed or abolished.

Offences
committed
before this
Act comes
into force.

(2) The repeal or abolition by this Act of any enactment or law does not revive any Act, enactment, regulation or thing not in force or existing at the time of the coming into force of this Act.

Effect of
repeal.

(3) The repeal or abolition by this Act of any enactment or law does not affect

Effect of
repeal.

(a) any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the enactment or law so repealed or abolished, or

(b) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability,
and any such investigation, legal proceeding or remedy may be instituted, continued or enforced as if the enactment or law had not been repealed or abolished.

Warrants. 4. For the purposes of section six hundred and sixty-two of the *Criminal Code*, a warrant for the arrest of any person issued

 (a) prior to the coming into force of this Act; or

 (b) after the coming into force of this Act in relation to any offence wholly or partly committed prior to the coming into force of this Act,

under any enactment or law repealed or abolished by this Act shall be deemed to be a warrant within the meaning of that section.

American Bases Act, 1941. 5. Nothing in this Act affects the operation of *The American Bases Act, 1941*, No. 12 of the Acts of Newfoundland, 1941.

Coming into force. 6. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

SCHEDULE
NEWFOUNDLAND ENACTMENTS REPEALED

Session and Chapter or Year and Number	Title or Short Title	Extent of Repeal
Consolidated Statutes (Third Series) Chapter 38.	Of the Protection of Electric Telegraphs and Telephones.	The whole.
Consolidated Statutes (Third Series) Chapter 51.	Of Nuisances and Municipal Regulations....	Sections 6, 7, 9, 10, 11, and 20.
1942, No. 9.....	An Act to Amend Chapter 51 of the Consolidated Statutes (Third Series) entitled "Of Nuisances and Municipal Regulations".	The whole.
Consolidated Statutes (Third Series) Chapter 61.	Of the St. John's Fire Department.....	Sections 7 and 8.
Consolidated Statutes (Third Series) Chapter 66.	Of the Carbonear Fire Brigade.....	Section 9.
Consolidated Statutes (Third Series) Chapter 67.	Of the Prevention of the Bringing of Spirituous Liquors on Board His Majesty's Ships.	The whole.
Consolidated Statutes (Third Series) Chapter 95.	Of the application of the Criminal Law of England and of Pardons.	The whole.
Consolidated Statutes (Third Series) Chapter 96.	Of the Jurisdiction, Power and Procedure of the Stipendiary Magistrates and Justices of the Peace as to Certain Offences.	Sections 1, 2, 3, 4, 5, 6, 7 and 8.

SCHEDULE—*Concluded*NEWFOUNDLAND ENACTMENTS REPEALED—*Concluded*

Session and Chapter or Year and Number	Title or Short Title	Extent of Repeal
1942, No. 7.....	An Act to Amend Chapter 96 of the Consolidated Statutes (Third Series) entitled "Of the Jurisdiction, Power and Procedure of Stipendiary Magistrates and Justices of the Peace as to Certain Offences".	The whole.
Consolidated Statutes (Third Series) Chapter 101.	Of Enlistment in the service of Foreign States.	The whole.
Consolidated Statutes (Third Series) Chapter 103.	Of Perjury.....	The whole.
Consolidated Statutes (Third Series) Chapter 105.	Of Lotteries.....	The whole.
12 George V, Chapter 19.....	An Act to Amend Chapter 105 of the Consolidated Statutes (Third Series) entitled "Of Lotteries".	The whole.
22 George V, Chapter 10 (Second Session).	An Act Further to Amend Chapter 105 of the Consolidated Statutes (Third Series) entitled "Of Lotteries".	The whole.
23 and 24 George V, Chapter 26.	An Act Further to Amend Chapter 105 of the Consolidated Statutes (Third Series) entitled "Of Lotteries".	The whole.
1947, No. 4.....	An Act Further to Amend Chapter 105 of the Consolidated Statutes (Third Series) entitled "Of Lotteries".	The whole.
1949, No. 62.....	An Act Further to Amend Chapter 105 of the Consolidated Statutes (Third Series) entitled "Of Lotteries".	The whole.
Consolidated Statutes (Third Series) Chapter 107.	Of the White Slave Traffic.....	The whole.
Consolidated Statutes (Third Series) Chapter 207.	Of Injuries to Railway Trains.....	The whole.
21 George V, Chapter 14.....	The Summary Jurisdiction Act, 1930.....	The whole.
22 George V, Chapter 16.....	An Act to Amend the Act 21 George V, Chapter 14 (Summary Jurisdiction Act, 1930).	The whole.
23 and 24 George V, Chapter 22.	An Act to Amend The Summary Jurisdiction Act, 1930.	The whole.
1942, No. 13.....	An Act Further to Amend the Summary Jurisdiction Act, 1930.	The whole.
1946, No. 10.....	An Act Further to Amend The Summary Jurisdiction Act, 1930.	The whole.
1941, No. 3.....	The Highway Traffic Act, 1941.....	Sections 35(1), 36, 37 and 39.
1945, No. 14.....	An Act to Amend The Highway Traffic Act, 1941.	Section 3.
1948, No. 6.....	An Act Further to Amend The Highway Traffic Act, 1941.	Section 2.
1949, No. 73.....	An Act Further to Amend The Highway Traffic Act, 1941.	Section 2.

THE PROVINCIAL SUBSIDIES ACT⁽¹⁾

R.S., 1952, CHAPTER 221

An Act respecting Subsidies and Allowances to the Provinces

SHORT TITLE

Short title. **1.** This Act may be cited as the *Provincial Subsidies Act*.
R.S., c. 192, s. 1.

FIXED SUBSIDIES

New Brunswick

Subsidy
to New
Brunswick
in lieu of
export duty
on lumber.

2. The Province of New Brunswick, in consideration of the Legislature thereof having passed an Act providing for the repeal of all duties of export on lumber exported from the Province, shall, so long as no such duties of export are imposed by the said Legislature, be paid, in addition to the subsidy to which the Province is entitled, a subsidy at the rate of one hundred and fifty thousand dollars annually, as indemnity for the loss of such duties and the right to impose the same.
R.S., c. 192, s. 2.

Prince Edward Island

Subsidy
to Prince
Edward
Island.

3. (1) To the Province of Prince Edward Island, there shall continue to be paid in addition to all other subsidies and allowances payable to the Province, an annual allowance or subsidy of twenty thousand dollars, payable half-yearly in advance on the 1st days of July and January in each and every year.

Additional.

(2) To the said Province of Prince Edward Island, in addition to all other sums authorized by law, there shall also continue to be paid an annual allowance of thirty thousand dollars, payable half-yearly in advance on the 1st days of July and January in each and every year.

In settle-
ment of
certain
claims.

(3) Such last-mentioned annual allowance shall be paid and accepted in full settlement of all claims of the Province against the Dominion of Canada on account of alleged non-fulfilment of the terms of union between the Dominion and the Province as respects the maintenance of efficient steam communication between the Island and the mainland. R.S., c. 192, s. 3.

(1) See note to section 118 of the B.N.A. Act, 1867.

Manitoba

4. The following amounts shall be allowed as the annual subsidy to the Province of Manitoba, and shall be paid yearly to the Province, that is to say,

- | | |
|---|---|
| <p>(a) for the support of the Government and Legislature, fifty thousand dollars;</p> | <p>Subsidy to Manitoba.</p> <p>For Government, etc.</p> |
| <p>(b) on an estimated population of one hundred and fifty thousand, at eighty cents per head, one hundred and twenty thousand dollars, subject to be increased as hereinafter mentioned, that is to say, a census of the Province shall be taken in every fifth year, reckoning from the general census of 1881; and an approximate estimate of the population shall be made at equal intervals of time between each quinquennial and decennial census; and whenever the population, by any such census or estimate, exceeds one hundred and fifty thousand, which shall be the minimum on which the said allowance shall be calculated, the amount of the said allowance shall be increased accordingly, and so on, until the population has reached four hundred thousand souls; and</p> | <p>Readjustment of <i>per capita</i> allowance according to census.</p> |
| <p>(c) as an indemnity for the want of public lands, one hundred thousand dollars. R.S., c. 192, s. 4.</p> | <p>Indemnity for want of public lands.</p> |

INTEREST ON DEBT ALLOWANCES

5. (1) In the accounts between the several Provinces of Ontario, Quebec, Nova Scotia, New Brunswick and British Columbia, respectively, and Canada, the amounts payable to and chargeable against the said Provinces respectively, in so far as they depend upon the amount of debt with which each province entered the Union, shall be calculated and allowed as if

- | | |
|--|---|
| <p>(a) in the case of the Provinces of Ontario and Quebec respectively, the sum fixed by section 112 of the <i>British North America Act, 1867</i>, was increased from sixty-two million five hundred thousand dollars to seventy-three million six hundred and eighty-eight dollars and eighty-four cents;</p> <p>(b) in the case of the Province of Nova Scotia, the amount fixed by section 114 of the said Act was increased in the same proportion;</p> <p>(c) in the case of the Province of New Brunswick, the amount fixed by section 115 of the said Act, was increased in the same proportion; and</p> | <p>Allowances to provinces in relation to amount of debt.</p> |
|--|---|

- (d) in the case of the Province of British Columbia, the amount upon which it was to receive interest fixed by or under the terms and conditions on which the Province was admitted into the Dominion was increased in the same proportion.

As to
Nova Scotia.

(2) The increased subsidy to be allowed to the Province of Nova Scotia under this section shall be based upon the sum of nine million one hundred and eighty-six thousand seven hundred and fifty-six dollars, as if that sum had been mentioned in section 114 of the *British North America Act, 1867*, instead of the sum of eight million dollars. R.S., c. 192, s. 5.

Calculation
of allow-
ances to
Ontario and
Quebec, and
to Nova
Scotia and
New
Brunswick.

6. (1) In the accounts between the several provinces and Canada, the amounts by which the yearly subsidy to each province was increased by the Act of the Parliament of Canada, passed in the year 1873, chapter 30, as explained with respect to Nova Scotia by the Act of the said Parliament, passed in the year 1874, chapter 3, shall be calculated and allowed to Ontario and Quebec jointly, as having formed the late Province of Canada, and to Nova Scotia and New Brunswick, as if the said Acts had directed that such increase should be allowed from the day of the coming into force of the *British North America Act, 1867*.

Capital
bearing
interest
at five
per cent.

(2) The total amount of the half-yearly payments which would in that case have been made on account of such increase from the 1st day of July, 1867, up to and including the 1st day of January, 1873, with interest on each at five per cent per annum, from the day on which it would have been so paid to the 1st day of July, 1884, shall be deemed capital owing to the said Provinces respectively, bearing interest at five per cent per annum, which interest shall be payable to them as part of their yearly subsidies from Canada. R.S., c. 192, s. 6.

As to
British
Columbia
and Prince
Edward
Island.

Increase.

7. (1) In the accounts between Canada and the Provinces of British Columbia and Prince Edward Island, the amounts calculated and allowed as the debts of those Provinces respectively, on the 19th day of April, 1884, and on which they were then paid interest by Canada, shall be increased by amounts bearing the same proportion to the respective populations of the said Provinces, as ascertained by the census of 1881, as the total of the amounts to be added under section 6 as capital owing to Ontario and Quebec, Nova Scotia and New Brunswick, bear to the combined population of the four last-named Provinces, as ascertained by the said census of 1881.

Capital
bearing
interest
at five
per cent.

(2) The amounts of such increases, as regards the said Provinces of British Columbia and Prince Edward Island, shall be deemed capital owing to the said Provinces respectively, bearing interest at the rate of five per cent per annum, which interest shall be payable to them as part of their respective subsidies from Canada. R.S., c. 192, s. 7.

8. The amount of the increase of the yearly subsidy and the capital on which the same is payable to the several provinces respectively, under sections 6 and 7 shall be as follows: Capital and yearly payments specified.

	Yearly Increase	Capital
To Ontario and Quebec jointly .	\$269,875 16	\$5,397,503 13
Nova Scotia	39,939 68	798,793 45
New Brunswick	30,225 97	604,519 35
British Columbia	4,155 39	83,107 88
Prince Edward Island	9,148 68	182,973 78

R.S., c. 192, s. 8.

Manitoba

9. (1) The capital sum on which the Province of Manitoba is entitled to receive half-yearly payments of interest at the rate of five per cent per annum, as fixed by the Act of the Parliament of Canada passed in the year 1870, chapter 3, and as readjusted or increased by any subsequent Act, shall continue to be calculated on a population of one hundred and twenty-five thousand, at a rate *per capita* ascertained by dividing the sum of five hundred and fifty-one thousand four hundred and forty-seven dollars, by seventeen thousand, which was the estimated population of the Province under the said Act, the said sum of five hundred and fifty-one thousand four hundred and forty-seven dollars being the amount of capital on which the Province was entitled to receive interest under and by virtue of section 24 of the Act hereinbefore last cited and chapter 30 of the Acts of the Parliament of Canada passed in the year 1873. Calculation of sum on which interest is payable to Manitoba as subsidy.

(2) The Province shall be charged with such advances as had, up to the 20th day of July, 1885, been made to the Province, and with such expenditure as had been made therein by the Dominion for purposes of a strictly local character, and with a further sum of one hundred and fifty thousand dollars, which the Dominion Government may advance to the Province to meet the expenditure of constructing a lunatic asylum, and other exceptional services. R.S., c. 192, s. 9. Charges thereon.

10. The grant of swamp lands and the grant of lands not exceeding one hundred and fifty thousand acres as an endowment to the University of Manitoba, authorized by Part I of the *Manitoba Supplementary Provisions Act*, and the payments to the Province of Manitoba hereinbefore authorized, shall be made as a full settlement of all claims made by the said Province for the reimbursement of costs incurred in the government of the disputed territory, or the reference of the boundary question to the Judicial Committee of the Privy Council, and all other questions and claims discussed between the Dominion and the provincial governments, up to the 10th day of January, 1885. R.S., c. 192, s. 10. Payments and grants under R.S.C. 1927, c. 124.

ADVANCES

Advances
to provinces
authorized.

11. (1) The Governor in Council may, in his discretion, advance, from time to time, to any province of Canada, any sums required for local improvements in the province, and not exceeding in the whole the amount by which the debt of the province for which Canada is responsible then falls short of the debt with which the province was allowed to enter the Union; but no such advance shall be made to any province unless it has been previously sanctioned by an Act of the legislature of that province.

Conditions
of such
advances.

(2) Such advances shall be deemed additions to the debt of the province, and the province may repay them to Canada, on such notice, in such sums and on such conditions as the Government of Canada and that of the Province agree upon; and any amount so repaid shall be deducted from the debt of the province in calculating the subsidy payable to it. R.S., c. 192, s. 11.

THE DOMINION-PROVINCIAL TAXATION
AGREEMENT ACT, 1942

6 GEORGE VI, CHAPTER 13

An Act to authorize the Governor in Council to enter into agreements with the Governments of the Provinces of Canada respecting the vacation by the provinces of the personal income and corporation tax fields for the duration of the war⁽¹⁾

[Assented to 28th May, 1942.]

WHEREAS the Dominion and the provinces and certain municipalities have been levying taxes upon incomes and upon corporations, and it is expedient during the continuation of the present war and for a certain re-adjustment period thereafter that the Dominion only should levy such taxes: Therefore, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. This Act may be cited as *The Dominion-Provincial Taxation Agreement Act, 1942*.

Short title.

2. The Minister of Finance, with the approval of the Governor in Council, may enter into an agreement with the government of any of the provinces of Canada to provide, in accordance with and subject to such terms and conditions as may be set out therein, that the province and its municipalities shall cease to levy personal income and corporation taxes as defined in such agreement and subject to such exceptions as may be set out in such agreement, for the duration of the war and for a certain re-adjustment period thereafter, and to provide for the payment of compensation by the Dominion to the province therefor.

Agreements with the provinces.

3. The annual amount of such compensation shall be,
(a) in the case of the provinces of British Columbia, Alberta, Manitoba, Ontario and Quebec, respectively as follows:—

Annual amount of compensation.

British Columbia	\$12,048,367.51
Alberta	4,080,860.64
Manitoba	5,054,740.92
Ontario	28,964,039.54
Quebec	20,586,074.56

(1) On the second reading of the Bill, that is on the 25th of May, 1942, the Minister of Finance stated that what the provinces were required to do was to vacate the personal income and corporation tax fields for the duration of the agreement which will run one year after the cessation of hostilities unless a province terminates its agreement sooner, that is at the end of any fiscal year. See also the different provincial Acts respecting these agreements, for instance c. 1 of the Statutes of Ontario, 1942, etc.

being an amount in each case calculated as equivalent to the total revenue obtained by the said provinces from personal income and corporation taxes during the fiscal year of each of said provinces and of municipalities therein ending nearest to the thirty-first day of December, 1940, which by the terms of the agreement will cease to be levied; and

- (b) in the case of the provinces of Nova Scotia, New Brunswick, Prince Edward Island and Saskatchewan, respectively as follows:

Nova Scotia	\$ 2,585,308.72
New Brunswick	3,278,574.15
Prince Edward Island	264,769.94
Saskatchewan	4,330,471.29

being an amount in each case calculated as equivalent to the net debt service paid by the province during its fiscal year ending nearest to December 31, 1940 (not including contributions to sinking funds) less the revenues obtained by the province from succession duties during the said fiscal year:

Proviso. Provided that any arrears of personal income and corporation taxes collected by a province after the close of its said fiscal year may, in accordance with and subject to such terms and conditions as may be set out in the agreement, be deducted from the annual amount payable to the province and shall be paid to the province after the termination of the agreement.

Additional subsidies.

4. The agreement may also provide that in the case of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island, Manitoba and Saskatchewan, the Dominion shall pay by way of additional subsidy during each year of the term of the agreement the respective amounts hereinafter set forth:

Nova Scotia	\$ 325,769.31
New Brunswick	371,493.30
Prince Edward Island	437,174.02
Manitoba	600,000.00
Saskatchewan	1,500,000.00

Compensation for loss of revenue re tax on sale of gasoline.

5. The agreement may also provide, in accordance with and subject to such terms and conditions as may be set out therein, that the Dominion shall pay with respect to each year of the term of the agreement to the province the amount by which the net receipts during the said year from the tax imposed by the province on the sale of gasoline are less in each case than the following amounts:

Nova Scotia	\$ 2,853,363.82
New Brunswick	2,101,072.01
Prince Edward Island	307,901.72
Quebec	11,803,248.13

Ontario	26,608,290.59
Manitoba	2,678,148.64
Saskatchewan	3,397,279.42
Alberta	3,221,975.68
British Columbia	3,763,625.95

being an amount in each case calculated as equivalent to the net receipts of the province from the tax imposed by the province on the sale of gasoline during the fiscal year of the province ending nearest to December 31, 1940.

6. The amounts payable to any province pursuant to an agreement made under the provisions of this Act or under any agreement heretofore made within the terms hereof shall be a charge upon the Consolidated Revenue Fund of Canada and payable out of any unappropriated moneys forming part thereof and shall be paid at such times and in such manner as may be set out in the agreement.

7. This Act shall be deemed to have come into force on the fifteenth day of March, 1942.

THE MARITIME PROVINCES ADDITIONAL SUBSIDIES ACT, 1942

6 GEORGE VI, CHAPTER 14

An Act to provide for the payment of additional subsidies to the Maritime Provinces⁽¹⁾

[Assented to 28th May, 1942.]

- Preamble. WHEREAS by Order in Council, P.C. 505, of the 7th day of April, 1926, a commission composed of Sir Andrew Rae Duncan, Kt., His Honour W. B. Wallace, judge of the County Court district No. 1, in the province of Nova Scotia, and professor Cyrus MacMillan of McGill University (hereinafter referred to as the "Duncan Commission"), was constituted under Part I of the *Inquiries Act*, to inquire into and report upon certain representations which had been made by the governments of the Maritime Provinces; and whereas the said Commission made certain recommendations with regard to the readjustment of the financial arrangements between the Government of the Dominion and the Governments of the provinces; and whereas following the report of the said Commission the Governments of the Maritime Provinces represented to the Dominion Government that a commission be set up to take under consideration and deal with the recommendations of the Duncan Commission that there be a revision of the financial arrangements between the Dominion Government and the Maritime Provinces; and whereas by Order in Council, P.C. 2231, of the 14th day of September, 1934, a commission composed of the Right Honourable Sir Thomas White, K.C.M.G., P.C., the Honourable John Alexander Mathieson, Chief Justice of the Supreme Court of Prince Edward Island, and Edward Nesbitt, esquire (hereinafter referred to as the "White Commission"), was constituted under Part I of the *Inquiries Act* to take into consideration and deal with the recommendations of the Duncan Commission that there be a revision of the financial arrangements between the Dominion Government and the Maritime Provinces; and whereas the said
- R.S., c. 99.
- R.S., c. 99.

(1) The grants provided in this Act are those which had been voted year by year by Parliament, pursuant to the findings of two commissions, the Duncan Commission and the White Commission. The maritime provinces considered that since they were foregoing these grants for the period of the agreements mentioned in the preceding Act, c. 13 of the statutes of 1942, they should have some statutory guarantee that the grants would be resumed at the termination of the agreements. See the speech of the Minister of Finance on the 25th day of May, 1942, pp. 2749-2750 of Hansard, session 1942.

White Commission recommended the payment of special additional subsidies to the Maritime Provinces as a final equitable settlement of the claims brought before it; and whereas the Governments of the Maritime Provinces have requested that an Act of Parliament be passed to implement the recommendations of the said White Commission: Therefore, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Maritime Provinces Additional Subsidies Act, 1942*.

2. The following additional annual subsidies shall be paid half-yearly in advance:

To Nova Scotia	\$ 1,300,000
To New Brunswick	900,000
To Prince Edward Island	275,000

out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada and be a charge thereon: Provided the said subsidies shall not be payable to any such province while an agreement under the provisions of *The Dominion Provincial Taxation Agreement Act, 1942*, remains in force with respect to such province.
- Short title.

Additional annual subsidies.

Charge on Consolidated Revenue Fund.

Proviso.

Payable after termination of agreements.

**THE DOMINION-ALBERTA
SUPPLEMENTARY TAXATION
AGREEMENT ACT, 1945⁽¹⁾**

9-10 GEORGE VI, CHAPTER 17

An Act to authorize the Minister of Finance, with the approval of the Governor in Council, to enter into an Agreement with the Province of Alberta to amend the Agreement entered into with that Province under the authority of the Dominion-Provincial Taxation Agreement Act, 1942

[Assented to 18th December, 1945.]

1942-43, c. 13. HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title. 1. This Act may be cited as *The Dominion-Alberta Supplementary Taxation Agreement Act, 1945*.

Authority to enter into agreement. 2. Notwithstanding anything contained in *The Dominion-Provincial Taxation Agreement Act, 1942*, the Minister of Finance with the approval of the Governor in Council, may enter into an agreement with the Government of the Province of Alberta to amend the agreement entered into with the Government of that province pursuant to the said Act dated the thirtieth day of March, one thousand nine hundred and forty-two, to provide

Terms. (a) that the annual amount of compensation which the Dominion agrees to pay to the province under section ten of the said agreement shall, subject to the deductions provided in the said section ten and all other terms and conditions of the said agreement, be the sum of five million, eight hundred and twenty-seven thousand, seven hundred and ninety-three dollars and

(1) The Act authorized the Minister of Finance, with the approval of the Governor in Council, to enter into an agreement with the Province of Alberta to amend the agreement with that province made under *The Dominion Provincial Taxation Agreement Act, 1942*.

Under the amended agreement the province receives \$5,827,793.94 annually during the currency of the agreement in place of the sum of \$4,080,860.64 it previously received. The sum of \$5,827,793.94 represents the amount the province would have received had it elected to take "the net debt service option" instead of the "tax receipts option". The province received also the lump sum of \$2,400,000 representing a fiscal need subsidy of \$600,000 in respect of each of the four fiscal years of the province ending in the years 1938 to 1941 inclusive.

The two relevant sections of *The Dominion Provincial Taxation Agreement Act, 1942*, are sections three and four.

ninety-four cents, being an amount calculated as equivalent to the net debt service of the province in respect of the fiscal period mentioned in paragraph (b) of section three of the said Act instead of the sum of four million, eighty thousand, eight hundred and sixty dollars and sixty-four cents as provided in paragraph (a) of the said section three as being the amount calculated as equivalent to the total revenues obtained by the province from personal and corporation taxes during the fiscal period mentioned therein;

- (b) that the Dominion will pay to the province such additional amount as would have been payable under the said agreement during the period in which the said agreement was in operation prior to the amendment thereof herein provided for, if the sum first mentioned in paragraph (a) of this section had, subject as aforesaid, been payable under the said section ten of the agreement in the place of the sum last mentioned in paragraph (a) of this section from the time when the said agreement first came into operation; and
- (c) that the Dominion will pay to the province by way of additional subsidy the sum of two million four hundred thousand dollars representing the sums of six hundred thousand dollars in respect of each of the fiscal years of the Province ending in the years one thousand nine hundred and thirty-eight to one thousand nine hundred and forty-one inclusive.

3. The amounts payable to the Province of Alberta pursuant to an agreement made under the provisions of this Act or under any agreement or Order in Council heretofore made within the terms hereof shall be a charge upon the Consolidated Revenue Fund of Canada and payable out of any unappropriated moneys forming part thereof at such times and in such manner as may be set out in the agreement.

Payments
out of
C.R. Fund.

4. This Act shall be deemed to have come into force on the seventh day of June, one thousand nine hundred and forty-five.

Coming
into force.

THE DOMINION-PROVINCIAL TAX RENTAL AGREEMENTS ACT, 1947⁽¹⁾

11 GEORGE VI, CHAPTER 58

An Act to authorize the Government of Canada to enter into Agreements with the Governments of the Provinces pursuant to which, in return for compensation, the Provinces agree to refrain from levying certain taxes for a limited period

[Assented to 17th July, 1947.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title. **1.** This Act may be cited as *The Dominion-Provincial Tax Rental Agreements Act, 1947*.

INTERPRETATION

- | | |
|------------------------------|---|
| Definitions,
"agreement." | 2. (1) In this Act, unless the context otherwise requires,
(a) "agreement" means an agreement entered into under subsection one of section three of this Act and includes any amending agreement entered into under subsection three of the said section; |
| "statutory
subsidies." | (b) "statutory subsidies" means the subsidies payable to any province, with which an agreement has been entered into, under any of the following enactments:
(i) <i>The British North America Acts, 1867 to 1946</i> , and Orders in Council thereunder: |
| 1900, c. 7. | (ii) An Act respecting the construction of a Branch Railway from Charlottetown to Murray Harbour, chapter seven of the statutes of 1900; |
| 1912, c. 32. | (iii) <i>The Manitoba Boundaries Extension Act, 1912</i> ; |
| 1912, c. 42. | (iv) <i>The Prince Edward Island Subsidy Act, 1912</i> ; |
| R.S., c. 192. | (v) <i>The Provincial Subsidies Act</i> ; |
| 1930, c. 3. | (vi) <i>The Alberta Natural Resources Act</i> ; |
| 1930, c. 37. | (vii) <i>The Railway Belt and Peace River Block Act</i> ; |
| 1930, c. 29. | (viii) <i>The Manitoba Natural Resources Act</i> ; |
| 1930, c. 41. | (ix) <i>The Saskatchewan Natural Resources Act</i> ; and |
| 1942-43, c. 15. | (x) <i>The Maritime Provinces Additional Subsidies Act, 1942</i> ; and |

(1) This Act was amended by c. 19 of the statutes of 1949 which follows and was replaced by the *Federal-Provincial Tax Sharing Arrangements* c. 29 of the statutes of 1956, *infra*.

- (c) "value of gross national product" in any year means the total value at market prices of all goods and services produced in Canada in the said year for the use of consumers or for inclusion in new capital and equipment, as estimated by the Dominion Statistician by adding together the shares of that total value which represent wages, salaries, incomes received in kind, incomes of individual enterprise, rents, interest, taxes, depreciation, profits, and other forms of income, and by such other methods as are generally recognized as the accepted statistical techniques for estimating the said value.

"value of
gross
national
product."

- (2) For the purposes of an agreement the population of a Province or of Canada for any year in which a census thereof was taken means the said population as ascertained by the census, and for any other year means the said population as estimated by the Dominion Statistician in such manner as may be agreed upon.

Population
how
determined.

AGREEMENTS

3. (1) The Minister of Finance, with the approval of the Governor in Council may, on behalf of the Government of Canada, enter into an agreement with the Government of any of the Provinces of Canada to provide, in accordance with and subject to such terms and conditions as may be so approved, that the Government of Canada will pay compensation, not exceeding the amount hereinafter authorized, to the Government of the Province if the Government of the Province and the municipalities in that Province,—

Minister of
Finance
may enter
into agree-
ments with
provinces.

- (a) refrain from levying personal income taxes, corporation income taxes and corporation taxes as defined in the agreement in respect of the period of five years commencing on the first day of January, nineteen hundred and forty-seven, and ending on the thirty-first day of December, nineteen hundred and fifty-one, or any lesser period ending on the said thirty-first day of December; and
- (b) refrain from levying succession duties as defined in the agreement in respect of succession or transmissions consequent upon, or on property passing upon any death occurring during the period of five years commencing on the first day of April, nineteen hundred and forty-seven, and ending on the thirty-first day of March, nineteen hundred and fifty-two, or any lesser period ending on the said thirty-first day of March.

Further
provisions.

(2) Notwithstanding anything contained in subsection one of this section, an agreement may provide that the Government of the Province may,

- (a) levy or empower a municipality to levy income tax or corporation income tax on income earned during the whole or any part of the period mentioned in paragraph (a) of subsection one derived from mining operations or on income so earned derived from logging operations as defined in the agreement;
- (b) impose corporation income tax, in such manner as may be agreed upon, at a rate of five per centum on income of corporations earned during the whole or any part of the period mentioned in paragraph (a) of subsection one attributable to their operations in that Province, but in such case provision shall be made in the agreement that there be deducted from the amount of compensation otherwise payable to the Government of the Province, an amount not less than the amount of the corporation income tax assessed and collected by or on behalf of the Government of the Province in respect of the said income of the said period or part thereof; and
- (c) impose succession duties in respect of deaths occurring during the whole or any part of the period mentioned in paragraph (b) of subsection one but in such case provision shall be made in the agreement that there be deducted from the amount of compensation otherwise payable to the Government of the Province, an amount not less than the amount allowed by the Government of Canada as a deduction from succession duties imposed by the Government of Canada on successions consequent upon the deaths of persons occurring during the said period or part thereof, in respect of succession duties paid to the Government of the Province on successions or transmissions consequent upon, or on property passing upon the said deaths.

Terms or
conditions
may be
amended.

(3) The Minister of Finance, with the approval of the Governor in Council may, on behalf of the Government of Canada, enter into an agreement, not inconsistent with the provisions of this Act, amending the terms or conditions of an agreement.

Compensa-
tion payable.

4. (1) Subject to subsection two of section three of this Act, the compensation payable by the Government of Canada to the Government of a Province under an agreement shall be an annual amount payable in respect of each of the fiscal years in respect of which the agreement is entered into, which annual amount shall not exceed the amount by which

- (a) the guaranteed minimum annual amount herein fixed for that Province or,

(b) the adjusted annual amount calculated as hereinafter provided with reference to the said guaranteed minimum annual amount for that Province, whichever is greater, exceeds the amount payable by the Government of Canada to the Government of that Province in respect of statutory subsidies during the fiscal year in respect of which the annual amount of compensation is payable.

(2) The amount of compensation payable by the Government of Canada to the Government of a Province under an agreement in respect of a part of a year shall not exceed that proportion of the amount that would have been payable in respect of the whole of the year, if the agreement had been entered into with respect to the whole of the year, that the part of the year is of the whole of the said year. Limitation.

(3) The guaranteed minimum annual amount of compensation payable under an agreement with the Government of a Province shall not exceed the respective amounts and in respect to the several named Provinces, as follows: Guaranteed minimum annual amount.

Alberta	\$ 14,227,882
British Columbia	18,120,124
Manitoba	13,540,038
New Brunswick	8,773,420
Nova Scotia	10,870,140
Ontario	67,158,027
Prince Edward Island	2,100,000
Quebec	56,382,127
Saskatchewan	15,291,490.

(4) The adjusted annual amount payable under an agreement with the Government of any Province shall not exceed the amount that is the average of amounts for each of the three calendar years immediately preceding the fiscal year in respect of which payment is to be made, the amount for each such calendar year being the greater of the two following amounts, namely,— Adjusted annual amount.

- (a) the guaranteed minimum annual amount for that Province fixed herein or
- (b) the amount that is the product of the guaranteed minimum annual amount for that Province, multiplied by the product obtained by multiplying
 - (i) the ratio that the value of the gross national product per capita in that calendar year bears to the said value in the calendar year nineteen hundred and forty-twoby
 - (ii) the ratio that the population of that Province for the calendar year bears to the said population for the calendar year nineteen hundred and forty-two,the said ratios to be computed as provided in the agreement.

Additional
payments.

1942-43, c. 13.

5. An agreement may provide that, in addition to any other amount payable thereunder, there will be paid to the Government of a Province that was a party to a wartime tax agreement entered into under *The Dominion-Provincial Taxation Agreement Act, 1942*, which wartime tax agreement terminated prior to the thirty-first day of March, nineteen hundred and forty-seven, additional payments in respect of the period beginning on the day following the termination of the wartime tax agreement and ending on the said thirty-first day of March, in an aggregate amount not exceeding the proportion of the guaranteed minimum annual amount for that Province fixed herein that is the same as the proportion that the number of months between the date of termination of the wartime tax agreement and the said thirty-first day of March, is of twelve.

CORPORATION INCOME TAX COLLECTION AGREEMENTS

Agreement
respecting
collection of
corporation
and income
taxes by
employees
of Canada.

6. (1) Notwithstanding anything contained in the *Income War Tax Act*, the Minister of National Revenue may with the approval of the Governor in Council, on behalf of the Government of Canada, enter into an agreement on such terms and conditions as may be agreed upon, with a Minister of the Crown in the Government of a Province that has entered into an agreement under subsection one of section three, to provide for the collection by officers and employees of Canada, without charge to the Government of the Province, of corporation income taxes mentioned in paragraph (b) of subsection two of section three of this Act levied by the Government of the Province.

Collection
on account
of both in
certain ratio.

R.S., c. 97.

(2) An agreement entered into under this section may provide that a payment collected by officers and employees of Canada from a corporation on account of tax on income of the corporation of any taxation year in respect of which it is liable to tax under the *Income War Tax Act* and under legislation enacted by the Government of a Province as provided by an agreement entered into under subsection one of section three of this Act, either on account of tax under the said Act or on account of tax under the said legislation, shall as between the Government of Canada and the Government of the Province be deemed to be paid on account of both of the said taxes in the ratio which the tax finally assessed therefor under the said Act bears to the tax finally assessed therefor under the said legislation, irrespective of whether the corporation appropriated the payment to either tax in whole or in part.

Payments
to provinces.

(3) Any amounts collected by officers and employees of Canada pursuant to this section under legislation enacted by the Government of the Province, shall be paid to the Government of the Province on whose behalf the moneys were collected at such times and under such terms and conditions as may be agreed upon.

SHARE OF INCOME TAX ON SPECIFIED CORPORATIONS

7. (1) Subject to the provisions of this section, the Minister of Finance may, at such time or times as he may determine, pay to the Government of each Province, amounts hereinafter specified, in respect of income tax collected from corporations whose main business is the distribution to or generation for distribution to the public of electrical energy, gas or steam in respect of income of the corporations derived from the said distribution or generation in the province to which payment is made during the whole or any part of the period commencing on the first day of January, nineteen hundred and forty-seven, and ending on the thirty-first day of December, nineteen hundred and fifty-one.

Payments
respecting
Income Tax
on specified
corporations.

(2) The amount that may be paid by the Minister of Finance under this section in respect of income tax collected on income of any taxation year of a corporation shall not exceed the amount remaining after deducting from such amount as is determined by the Minister of National Revenue to be one-half of the said tax collected on that part of the said income that was derived from distribution to or generation for distribution to the public of electrical energy, gas or steam in the Province to which payment is made, the following amounts:

Limitation.

- (a) the amount by which any royalties and rentals of a class that were payable by the corporation on the first day of July, nineteen hundred and forty-seven, paid by the corporation to the Government of the Province during the taxation year, exceed the amount that would have been so payable during that taxation year if the rates in force on that date were in force during the taxation year;
- (b) the amount of any other royalties and rentals paid by the corporation to the said Government during the said taxation year; and
- (c) the amount of all taxes and fees paid by the corporation to the Government of the Province or to a municipality in the Province during the said taxation year that in the opinion of the Minister of National Revenue are attributable to the distribution to or generation for distribution to the public by the corporation of electrical energy, gas or steam, and of all taxes or fees imposed on the use or consumption of electrical energy, gas or steam collected by the corporation during the taxation year on behalf of the said Government or of a municipality which in the opinion of the said Minister are not part of a sales tax of general application: Provided that there shall not be required to be deducted under this paragraph any amount in respect of
 - (i) taxes on net income or gross revenues or receipts of the corporation levied by the Province

Proviso.

or a municipality in accordance with the terms of an agreement entered into under section three of this Act between the Government of the Province and the Government of Canada, or⁽²⁾

- (ii) any other taxes or fees (not including taxes on net income or gross revenues or receipts of the corporation or on use or consumption aforesaid collected as aforesaid) that may be levied by a province or municipality under the terms of any agreement entered into under the said section three between the Government of any Province and the Government of Canada.

Discretion
of Minister.

(3) The Minister of National Revenue may, for the purposes of this section, determine whether the main business of a corporation is the distribution to or generation for distribution to the public of electrical energy, gas or steam and the proportion of the income of corporation in any taxation year that is derived from such distribution or generation in any Province.

Certain
distribution
and genera-
tion not
included.

(4) For the purposes of this section distribution to or generation for distribution to the public by a corporation of electrical energy, gas or steam does not include distribution or generation for distribution to,

- (a) another corporation controlled by the first mentioned corporation;
- (b) another corporation that controls the first mentioned corporation; or
- (c) another corporation that is controlled by persons who control the first mentioned corporation.⁽³⁾

Proportion-
ate amounts
payable.

(5) Where part only of a taxation year of a corporation falls within the period mentioned in this section, the amount payable in respect of that part of the taxation year shall be that proportion of the amount that might be payable for the whole of the taxation year computed in accordance with the preceding subsections of this section, that the number of days in the said part of the taxation year is of the number of days in the taxation year.

(6) For the purposes of this section, a person is deemed to control a corporation if he owns more than fifty per centum of the shares of the corporation that have full voting rights in all circumstances.⁽⁴⁾

(2) Amended by c. 19 of the statutes of 1949, *infra*.

(3) Repealed and new by c. 19 of the statutes of 1949, *infra*.

(4) Section seven was further amended by adding thereto subsections seven to eleven. *See* c. 19 of the Statutes of 1949 which follows.

APPROPRIATION

8. (1) The amount payable to the Government of any Province pursuant to an agreement or that may be payable under section seven of this Act, shall be a charge upon the Consolidated Revenue Fund of Canada and may be paid out of any unappropriated moneys forming part thereof at such time and in such manner as may be set out in the agreement or otherwise as the Minister of Finance may determine.

(2) Any payment made under the authority of section five of this Act shall be accounted for and charged as an expenditure during the fiscal year ending on the thirty-first day of March, nineteen hundred and forty-seven.

Amount payable a charge upon Consolidated Revenue Fund.

Payments under section 5.

**THE DOMINION-PROVINCIAL
TAX RENTAL AGREEMENTS ACT, 1947,
AMENDMENT ACT⁽¹⁾**

13 GEORGE VI, 1949, CHAPTER 19

**An Act to amend The Dominion-Provincial Tax Rental
Agreements Act, 1947**

[Assented to 10th December, 1949.]

1947, c. 58.

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. (1) Subparagraph (i) of paragraph (c) of subsection two of section seven of *The Dominion-Provincial Tax Rental Agreements Act, 1947*, chapter fifty-eight of the statutes of 1947, is amended by adding thereto the following:

“if the Government of the Province has not entered into such an agreement, that portion of the taxes on net income of the corporation levied by the Province that does not exceed the amount that would have been paid if the rate at which the taxes were levied were the rate that might, under the terms of any such agreement, be levied on the net income of the corporation, or”

(2) Subsection four of section seven of the said Act is repealed and the following substituted therefor:

Certain
distribution
and
generation
not included.

“(4) For the purposes of this section distribution to or generation for distribution to the public by a corporation of electrical energy, gas or steam does not include distribution or generation for distribution to,

- (a) another corporation controlled by the first mentioned corporation;
- (b) another corporation that controls the first mentioned corporation; or
- (c) another corporation that is controlled by persons who control the first mentioned corporation

(1) Section 7 of the main Act, which is the only section amended by the present Act, provides for payment to the government of a province of half of the income tax collected under the Income War Tax Act or the Income Tax Act on income derived by a corporation from the distribution to or generation for distribution to the public of electrical energy, gas or steam in the Province where this is the main business of a corporation. Provision is made for the deduction from the payment to the province of certain provincial taxes imposed on such corporations.

except to the extent that, in the opinion of the Minister of National Revenue, any of the electrical energy, gas or steam is distributed by that or any other corporation otherwise than to a corporation controlled by it, or that it controls, or that is controlled by the same persons who control it."

(3) Section seven of the said Act is further amended by adding thereto the following subsections:

"(7) Every corporation engaged in the distribution or generation of electrical energy, gas or steam shall make a return to the Minister of National Revenue in such form as he may prescribe for the purpose of obtaining information required for the administration of this section, within six months after the end of each fiscal year of the corporation.

Annual
return to
Minister.

(8) The Minister of National Revenue may require any corporation mentioned in subsection seven to make a special return in such form and containing such information in its possession as he may require for the purpose of the administration of this section.

Special
return.

(9) Any return made by a corporation under this section shall be signed by the president, secretary, treasurer or chief agent having personal knowledge of the affairs of the corporation.

Signature
to return.

(10) Where any return required to be made by a corporation under subsection seven is not made in the prescribed form within the time therein fixed or any special return required under subsection eight is not made by the corporation in the prescribed form within ninety days after notice has been given to the corporation by the Minister of National Revenue that the return is required, the corporation is liable to a penalty of ten dollars for each day thereafter during which it does not deliver the return or five hundred dollars, whichever is less, and the penalty may be recovered as a debt due to the Crown.

Penalty
for failure
to make
return.

(11) For the purpose of this section an agreement entered into on behalf of the Government of Canada with the Government of the Province of Newfoundland under the Terms of Union of Newfoundland with Canada of a like nature of the agreements authorized by section three shall be deemed to be an agreement entered into under the terms of section three."

New-
foundland.

THE TAX RENTAL AGREEMENTS ACT, 1952

1 ELIZABETH II, CHAPTER 49

An Act to authorize the Government of Canada to enter into Agreements with the Governments of the Provinces pursuant to which, in return for compensation, the Provinces agree to refrain from levying certain taxes for a limited period

[Assented to 4th July, 1952.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title. **1.** This Act may be cited as *The Tax Rental Agreements Act, 1952*.

INTERPRETATION

Definitions. **2.** (1) In this Act,

“agree-
ment”. (a) “agreement” means an agreement entered into under subsection one of section three and includes any amending agreement entered into under subsection three of the said section;

“statutory
subsidies.” (b) “statutory subsidies” means the subsidies payable to any province, with which an agreement has been entered into, under any of the following enactments:

1900, c. 7. (ii) *An Act respecting the construction of a Branch Railway from Charlottetown to Murray Harbour*, chapter seven of the statutes of 1900;

1912, c. 32. (iii) *The Manitoba Boundaries Extension Act, 1912*;

1912, c. 42. (iv) *The Prince Edward Island Subsidy Act, 1912*;

R.S., c. 192. (v) *The Provincial Subsidies Act*;

1930, c. 3. (vi) *The Alberta Natural Resources Act*;

1930, c. 37. (vii) *The Railway Belt and Peace River Block Act*;

1930, c. 29. (viii) *The Manitoba Natural Resources Act*;

1930, c. 41. (ix) *The Saskatchewan Natural Resources Act*; and

1942-43,
c. 14. (x) *The Maritime Provinces Additional Subsidies Act, 1942*.

“value of
gross
national
product.” (c) “value of gross national product” means, with respect to any year, the value of all goods and services produced in the year by persons resident in Canada as determined by the Dominion Statistician.

(2) For the purposes of an agreement, the population of a Province or of Canada for any year in which a census thereof was taken means the said population as ascertained by the census, and for any other year means the said population as estimated by the Dominion Statistician in such manner as may be agreed upon.

Population
how
determined.

AGREEMENTS

3. (1) The Minister of Finance, with the approval of the Governor in Council may, on behalf of the Government of Canada, enter into an agreement with the Government of any of the Provinces of Canada to provide, in accordance with and subject to such terms and conditions as may be so approved, that the Government of Canada will pay compensation, not exceeding the amount hereinafter authorized, to the Government of the Province if the Government of the Province and the municipalities in that Province,

Minister of
Finance may
enter into
agreement
with
Provinces.

- (a) refrain from levying individual income taxes, corporation income taxes and corporation taxes as defined in the agreement in respect of the period of five years commencing on the first day of January, nineteen hundred and fifty-two, and ending on the thirty-first day of December, nineteen hundred and fifty-six, or any lesser period ending on the said thirty-first day of December; and
- (b) refrain from levying succession duties as defined in the agreement in respect of successions or transmissions consequent upon, or on property passing upon any death occurring during the period of five years commencing on the first day of April, nineteen hundred and fifty-two, and ending on the thirty-first day of March, nineteen hundred and fifty-seven, or any lesser period ending on the said thirty-first day of March.

(2) Notwithstanding anything contained in subsection one, an agreement may provide that the Government of the Province may,

Further
provisions.

- (a) levy or empower a municipality to levy taxes on income earned during the whole or any part of the period mentioned in paragraph (a) of subsection one derived from mining operations or on income earned therein derived from logging operations as defined in the agreement or on income so earned derived from both mining and logging operations; and
- (b) impose succession duties in respect of deaths occurring during the whole or any part of the period mentioned in paragraph (b) of subsection one but in such case provision shall be made in the agreement that there be deducted from the amount of compensation otherwise payable to the Government of the Province, an amount

not less than the amount allowed by the Government of Canada as a deduction from succession duties imposed by the Government of Canada on successions consequent upon the death of persons occurring during the said period or part thereof, in respect of succession duties paid to the Government of the Province on successions or transmissions consequent upon, or on property passing upon the said deaths.

Terms or conditions may be amended. (3) The Minister of Finance, with the approval of the Governor in Council may, on behalf of the Government of Canada, enter into an agreement, not inconsistent with the provisions of this Act, amending the terms or conditions of an agreement.

Compensation payable. 4. (1) Subject to subsection two of section three, the compensation payable by the Government of Canada to the Government of a Province under an agreement shall be an annual amount payable in respect of each of the fiscal years in respect of which the agreement is entered into, which annual amount shall not exceed the amount by which

- (a) the guaranteed minimum annual amount herein fixed for that Province, or
- (b) the adjusted annual amount calculated as hereinafter provided with reference to the said guaranteed minimum annual amount for that Province,

whichever is greater, exceeds the amount payable by the Government of Canada to the Government of that Province in respect of statutory subsidies during the fiscal year commencing in 1952.

Limitation. (2) The amount of compensation payable by the Government of Canada to the Government of a Province under an agreement in respect of a part of a year shall not exceed that proportion of the amount that would have been payable in respect of the whole of the year, if the agreement had been entered into with respect to the whole of the year, that the part of the year is of the whole of the said year.

Guaranteed minimum annual amount. (3) The guaranteed minimum annual amount with respect to a Province shall not exceed the amount specified hereunder with respect to that Province, namely:

Alberta	\$20,985,710
British Columbia	29,647,487
Manitoba	18,634,954
New Brunswick	12,576,093
Newfoundland	9,174,624
Nova Scotia	15,348,220
Ontario	101,801,370
Prince Edward Island	2,977,015
Quebec	85,080,466
Saskatchewan	20,026,085

(4) The adjusted annual amount with respect to a Province shall not exceed Adjusted annual amount.

- (a) the amount for the single calendar year immediately preceding the fiscal year in respect of which payment is to be made, or
- (b) the amount that is the average of the amounts for the two calendar years immediately preceding the fiscal year in respect of which payment is to be made,

whichever the agreement provides, the amount for such a calendar year being the greater of

- (c) the guaranteed minimum annual amount for that Province fixed herein or
- (d) the amount that is the product of the guaranteed minimum annual amount for that Province, multiplied by the product obtained by multiplying
 - (i) the ratio that the value of the gross national product per capita in that calendar year bears to the said value in the calendar year nineteen hundred and forty-eight

by

- (ii) the ratio that the population of that Province for the calendar year bears to the said population for the calendar year nineteen hundred and forty-eight,
- the said ratios to be computed as provided in the agreement.

5. (1) Where the Minister and a Province consider it desirable, in order to bring to an early conclusion the deductions by Canada from amounts payable by Canada to a Province, and payments by the Province to Canada, under clause three of the agreement made with the Province pursuant to *The Dominion-Provincial Tax Rental Agreements Act, 1947*, in respect of corporation income taxes, the Minister may, with the approval of the Governor in Council, enter into an agreement with the Province under which 1947, c. 58.

- (a) in consideration of the release by the Province of its right to all further payments by Canada under the Corporation Income Tax Collection Agreement made between Canada and the Province pursuant to section six of *The Dominion-Provincial Tax Rental Agreements Act, 1947*, Canada releases its right to all further payments by the Province and to make all further deductions under the said clause three,
- (b) in consideration of the payment by Canada of an agreed amount, the Province releases its right to payment by Canada under the said Corporation Income Tax Collection Agreement of interest and penalties in respect of overdue taxes, and

- (c) Canada will retain all further amounts collected by it under the said Corporation Income Tax Collection Agreement,
- or under which
- (d) Canada agrees to pay to the Province at such times and in such manner as may be agreed, the amount that in the opinion of the Minister of National Revenue is the estimated amount of all future payments by Canada under the said Corporation Income Tax Collection Agreement, including interest and penalties, in full settlement of all claims by the Province under the said agreement,
- (e) the Province agrees to pay to Canada at such times and in such manner as may be agreed, the amount that in the opinion of the Minister of National Revenue is the estimated amount of all future payments by the Province to Canada under the said Clause three, in full settlement of all claims by Canada under the said Clause three, and
- (f) Canada will retain all further amounts collected by it under the said Corporation Income Tax Collection Agreement.

(2) An agreement made pursuant to this section may form part of an agreement made under section three or may be a separate agreement.

SHARE OF INCOME TAX ON SPECIFIED CORPORATIONS

Payments
respecting
Income Tax
on specified
corpora-
tions.

6. (1) Subject to the provisions of this section, the Minister of Finance may, at such time or times as he may determine, pay to the Government of each Province amounts hereinafter specified, in respect of income tax collected from corporations whose main business is the distribution to or generation for distribution to the public of electrical energy, gas or steam in respect of income of the corporations derived from the said distribution or generation in the Province to which payment is made during the whole or any part of the period commencing on the first day of January, nineteen hundred and fifty-two, and ending on the thirty-first day of December, nineteen hundred and fifty-six.

Limitation.

(2) The amount that may be paid by the Minister of Finance under this section in respect of income tax collected on income of any taxation year of a corporation shall not exceed the amount remaining after deducting from such amount as is determined by the Minister of National Revenue to be one-half of the said tax collected on that part of the said income

that was derived from distribution to or generation for distribution to the public of electrical energy, gas or steam in the Province to which payment is made, the following amounts:

- (a) the amount by which any royalties and rentals of a class that was payable by the corporation on the first day of July, nineteen hundred and forty-seven, paid by the corporation to the Government of the Province during the taxation year, exceed the amount that would have been so payable during that taxation year if the rates in force on that date were in force during the taxation year;
- (b) the amount of any other royalties and rentals paid by the corporation to the said Government during the said taxation year; and
- (c) the amount of all taxes and fees paid by the corporation to the Government of the Province or to a municipality in the Province during the said taxation year that in the opinion of the Minister of National Revenue are attributable to the distribution to or generation for distribution to the public by the corporation of electrical energy, gas or steam, and of all taxes or fees imposed on the use or consumption of electrical energy, gas or steam collected by the corporation during the taxation year on behalf of the said Government or of a municipality which in the opinion of the said Minister are not part of a sales tax of general application; but there shall not be required to be deducted under this paragraph any amount in respect of
 - (i) taxes on gross revenues or receipts of the corporation levied by the Province or a municipality in accordance with the terms of an agreement entered into under section three of this Act between the Government of the Province and the Government of Canada, or if the Government of the Province has not entered into such an agreement, that portion of the taxes on net income of the corporation derived from the specified sources levied by the Province that does not exceed the amount that would have been paid if the rate at which the taxes were levied were five per cent of the said net income, or
 - (ii) any other taxes or fees (not including taxes on gross revenues or receipts of the corporation or on use or consumption aforesaid collected as aforesaid) that may be levied by a province or municipality under the terms of any agreement entered into under the said section three between the Government of any Province and the Government of Canada.

Discretion
of Minister.

(3) The Minister of National Revenue may, for the purposes of this section, determine whether the main business of a corporation is the distribution to or generation for distribution to the public of electrical energy, gas or steam and the proportion of the income of the corporation in any taxation year that is derived from such distribution or generation in any Province.

Certain
distribution
and
generation
not included.

(4) For the purposes of this section, distribution to or generation for distribution to the public by a corporation of electrical energy, gas or steam does not include distribution or generation for distribution to,

- (a) another corporation controlled by the first mentioned corporation;
- (b) another corporation that controls the first mentioned corporation; or
- (c) another corporation that is controlled by persons who control the first mentioned corporation

except to the extent that, in the opinion of the Minister of National Revenue, any of the electrical energy, gas or steam is distributed by that or any other corporation otherwise than to a corporation controlled by it, or that it controls, or that is controlled by the same persons who control it.

Proportion-
ate amounts
payable.

(5) Where part only of a taxation year of a corporation falls within the period mentioned in this section, the amount payable in respect of that part of the taxation year shall be that proportion of the amount that might be payable for the whole of the taxation year computed in accordance with the preceding subsections of this section, that the number of days in the said part of the taxation year is of the number of days in the taxation year.

Person
deemed
to control
corpora-
tion.

(6) For the purposes of this section, a person is deemed to control a corporation if he owns more than fifty per cent of the shares of the corporation that have full voting rights in all circumstances.

Return to
be made to
Minister of
National
Revenue.

(7) Every corporation engaged in the distribution or generation of electrical energy, gas or steam shall make a return to the Minister of National Revenue in such form as he may prescribe for the purpose of obtaining information required for the administration of this section, within six months after the end of each fiscal year of the corporation.

Special
return on
request of
Minister of
National
Revenue.

(8) The Minister of National Revenue may require any corporation mentioned in subsection seven to make a special return in such form and containing such information in its possession as he may require for the purpose of the administration of this section.

Officer
responsible
for signing
return.

(9) Any return made by a corporation under this section shall be signed by the president, secretary, treasurer or chief agent having personal knowledge of the affairs of the corporation.

(10) Where any return required to be made by a corporation under subsection seven is not made in the prescribed form within the time therein fixed or any special return required under subsection eight is not made by the corporation in the prescribed form within ninety days after notice has been given to the corporation by the Minister of National Revenue that the return is required, the corporation is liable to a penalty of ten dollars for each day thereafter during which it does not deliver the return or five hundred dollars, whichever is less, and the penalty may be recovered as a debt due to the Crown.

Penalty
for non-
compliance.

(11) In this section "income tax" does not include tax payable by virtue of the *Old Age Security Act* and "gas" does not include a commodity that is sold in portable containers or that is distributed by a corporation through a system of the corporation itself for the distribution of gas by means of which it distributes gas to less than one hundred different customers.

APPROPRIATION

7. The amount payable to the Government of a Province under an agreement entered into pursuant to section three or section five, or that is payable under section six shall be paid out of the Consolidated Revenue Fund at such time and in such manner as may be specified in the agreement or otherwise as the Minister of Finance determines.

Amount
payable a
charge upon
C.R. Fund.

THE FEDERAL-PROVINCIAL TAX-SHARING ARRANGEMENTS ACT, 1956⁽¹⁾

4-5 ELIZABETH II, CHAPTER 29

An Act to authorize the Minister of Finance to make payments to the Governments of the Provinces and to authorize the Government of Canada to enter into fiscal agreements with the Governments of the Provinces

[Assented to 31st July, 1956.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title. **1.** This Act may be cited as the *Federal-Provincial Tax-Sharing Arrangements Act*.

INTERPRETATION

Definitions.	2. (1) In this Act,
“Fiscal year.”	(a) “fiscal year” means the period of twelve months commencing on the 1st day of April and ending on the 31st day of March next following;
“Minister.”	(b) “Minister” means the Minister of Finance;
“Province.”	(c) “province” does not include the Northwest Territories or the Yukon Territory;
“Standard corporation income tax.”	(d) “standard corporation income tax” as applied to a province for a fiscal year, means the amount, as determined by the Minister, that would be derived from a tax on the income earned within the province by each corporation that maintained a permanent establishment within the province on the last day of its taxation year, for the purposes of the <i>Income Tax Act</i> , ending in the calendar year that ends in the fiscal year, at the rate of nine per cent on its taxable income earned within the province in that taxation year, such tax to be computed as if imposed under the <i>Income Tax Act</i> and regulations thereunder;

(1) This Act was amended by the two statutes which follow: 1957-58, c. 29; 1959, c. 26 and 1960, c. 13. These Acts follow the present one.

- (e) "standard corporation rate" means the rate specified in paragraph (d); "Standard corporation rate."
- (f) "standard individual income tax" as applied to a province for a fiscal year, means the amount, as determined by the Minister, that would be derived from a tax
- (i) on the incomes of individuals resident within the province on the last day of the taxation year, for the purposes of the *Income Tax Act*, ending in the fiscal year, and
 - (ii) on the incomes earned in that taxation year within the province by individuals not resident in any other province,
- equal to ten per cent of the total amount of tax payable under the *Income Tax Act* on those incomes but not including the Old Age Security tax imposed by subsection (3) of section 10 of the *Old Age Security Act*;
- (g) "standard individual rate" means the percentage specified in paragraph (f); "Standard individual rate."
- (h) "standard succession duty" as applied to a province for a fiscal year means the amount determined by the Minister that would be derived from a tax equal to fifty per cent of the total amount of succession duty payable under the *Dominion Succession Duty Act* in respect of the province for the fiscal year, and where succession duty is payable under an enactment other than the *Dominion Succession Duty Act*, the amount determined by the Minister that would be derived from a tax equal to fifty per cent of the total amount of succession duty payable in respect of
- (i) property situated in the province and included in the estates of persons dying in the fiscal year domiciled in the province,
 - (ii) property (other than real property) situated outside Canada passing to persons domiciled in the province and included in the estates of persons dying in the fiscal year domiciled in the province, and
 - (iii) property situated in the province included in the estates of persons dying in the fiscal year domiciled outside the province;
- (i) "standard succession duty rate" means the percentage specified in paragraph (h); "Standard succession duty rate."
- (j) "standard taxes" as applied to a province for a fiscal year, means the aggregate of
- (i) the standard individual income tax and the standard corporation income tax applicable to that province for that fiscal year, and
- "Standard taxes."

- (ii) the average of standard succession duty applicable to that province for that fiscal year and the two fiscal years immediately preceding it;
- “Succession duty.” (k) “succession duty” for the purposes of paragraph (h) means any estate, legacy, succession or inheritance duty or tax imposed by any Act of the Parliament of Canada; and
- “Tax rental agreement.” (l) “tax rental agreement” means an agreement entered into under section 6.
- Populations. (2) For the purposes of this Act and any agreement made under this Act,
- (a) the population of Canada or a province
- (i) for a calendar year in which a census thereof was taken, means the population as ascertained by the census, and
- (ii) for any other year, means the population on the 1st day of June in that year as estimated by the Dominion Statistician, on the assumption that the population changed at a uniform rate annually between censuses; and
- (b) the population of Canada or a province for any fiscal year is the population determined in accordance with this subsection for the calendar year in which the fiscal year begins.
- Alteration of standard rate. (3) Where from time to time by reason of a change in the rates of tax or in personal exemptions or allowances for dependants as defined in the regulations, the effective rate of individual income tax or of succession duty differs from the corresponding effective rate applicable
- (a) in the case of individual income tax, on the 6th of January, 1956, or
- (b) in the case of succession duty, on the 6th day of January, 1956, or, where the succession duty is imposed by an enactment other than the *Dominion Succession Duty Act*, on the date of coming into force of that enactment,
- the Minister shall alter the standard individual rate or the standard succession duty rate, or both, as the case may be, in relation to the corresponding effective rate, so that the ratio of the new standard rate to the former standard rate varies inversely with the ratio of the new effective rate to the former effective rate; and for the purposes of this subsection the Minister shall determine the effective rates.

PAYMENTS TO A PROVINCE

3. (1) Subject to this Act, the Minister may pay to a province in respect of any fiscal year in the period commencing on the 1st day of April, 1957, and ending on the 31st day of March, 1962, Payments to provinces.

- (a) a tax equalization payment not exceeding the amount computed in accordance with section 4;
- (b) a provincial revenue stabilization payment not exceeding the amount computed in accordance with section 5; and
- (c) a tax rental payment in accordance with a tax rental agreement made under section 6.

(2) The amounts authorized to be paid by this Act shall be paid out of the Consolidated Revenue Fund at such times and in such manner as may be prescribed in the regulations or in an agreement made under this Act. C.R.F.

TAX EQUALIZATION PAYMENTS

4. The tax equalization payment applicable to a province for a fiscal year is the amount, if any, as determined by the Minister, that when added to the standard taxes of the province for that year will cause Tax equalization payment.

- (a) the per capita amount derived by dividing
 - (i) the sum so obtained,by
 - (ii) the population of the province for that year, to equal
- (b) the per capita amount derived by dividing
 - (i) the sum of the standard taxes of the two provinces for which the per capita standard taxes for that year are greatest,by
 - (ii) the total population of those two provinces for that year.

PROVINCIAL REVENUE STABILIZATION PAYMENTS

5. (1) The provincial revenue stabilization payment applicable to a province for a fiscal year is the amount by which the greatest of Provincial revenue stabilization payment.

- (a) the adjusted 1957 tax rental payment,
- (b) the projected tax rental payment, and
- (c) the basic stabilization amount

applicable to the province for that fiscal year exceeds the total of the tax equalization payment and current tax rental payment applicable to the province for that fiscal year.

Adjusted
1957 tax
rental
payment.

(2) The adjusted 1957 tax rental payment applicable to a province is the amount, as determined by the Minister,

(a) in the case of a province that entered into an agreement contemplated by *The Tax Rental Agreements Act, 1952*, whereby the province and municipalities therein would refrain from imposing individual income taxes, corporation income taxes, corporation taxes and succession duties, that is payable by Canada to the province under the agreement in respect of the fiscal year ending in 1957 by way of compensation as authorized by section 4 of the said Act, or

(b) in the case of a province that did not enter into an agreement described in paragraph (a), that would have been payable by Canada to the province in respect of the fiscal year ending in 1957 by way of compensation as authorized by section 4 of *The Tax Rental Agreements Act, 1952*, if the province had entered into such an agreement upon the most favourable terms permitted by the said Act,

increased, for the purposes of any fiscal year, to the amount that is in the same proportion to the amount so payable as the population of the province for that fiscal year is to the said population for the fiscal year ending in 1957.

Projected
tax rental
payment.

(3) The projected tax rental payment applicable to a province for a fiscal year is the amount, as determined by the Minister in accordance with the regulations, that would be payable by Canada to the province in respect of the fiscal year as compensation for the province and municipalities therein refraining from imposing individual income taxes, corporation income taxes, corporation taxes and succession duties pursuant to an agreement similar in principle to such an agreement as authorized by *The Tax Rental Agreements Act, 1952* (with such modification as the Governor in Council deems necessary for the purpose of applying that Act and the agreements to the period commencing the 1st day of April, 1957 and ending on the 31st day of March, 1962) if such an agreement had been entered into by Canada and the province.

Basic
stabilization
amount.

(4) The basic stabilization amount applicable to a province for a fiscal year is the amount determined by the Minister to be,

(a) for the fiscal year ending in the year 1959, ninety-five per cent of the total of the tax equalization payment, provincial revenue stabilization payment and current tax rental payment applicable to the province for the fiscal year ending in the year 1958; and

(b) for the fiscal year ending in the year 1960 and for each succeeding fiscal year, ninety-five per cent of the average of the totals of the tax equalization payments, provincial revenue stabilization payments and current

tax rental payments applicable to the province for the two fiscal years immediately preceding that fiscal year.

(5) The current tax rental payment applicable to a province for a fiscal year is, Current tax rental payment.

(a) in the case of a province that has entered into a tax rental agreement under which the province agrees to refrain from imposing individual income taxes, corporation income taxes, corporation taxes and succession duties, the amount payable by Canada to the province under that agreement in respect of that fiscal year by way of compensation therefor; and

(b) in the case of a province to which paragraph (a) does not apply, the amount determined by the Minister to be the amount that would be so payable by Canada to the province if the province had entered into such an agreement.

TAX RENTAL AGREEMENTS

6. (1) The Minister, with the approval of the Governor in Council, may, on behalf of the Government of Canada, enter into an agreement with the government of any province to provide, in accordance with and subject to such terms and conditions as may be so approved, that Canada will pay compensation, as authorized by section 7, to the province if the province and the municipalities in that province refrain from levying all or any of the following: Tax rental agreements.

(a) individual income taxes, as defined in the agreement, in respect of the period of five years commencing on the 1st day of January, 1957 and ending on the 31st day of December, 1961, or any lesser period ending on the said 31st day of December;

(b) corporation income taxes and corporation taxes as defined in the agreement, in respect of the period of five years commencing on the 1st day of January, 1957 and ending on the 31st day of December, 1961, or any lesser period ending on the said 31st day of December; and

(c) succession duties as defined in the agreement, in respect of succession or transmissions consequent upon, or on property passing upon any death occurring during the period of five years commencing on the 1st day of April, 1957 and ending on the 31st day of March, 1962, or any lesser period ending on the said 31st day of March.

(2) Notwithstanding subsection (1), a tax rental agreement may, without affecting the compensation payable under section 7, provide that the province may levy or empower a municipality to levy taxes on income earned in the province during the whole or any part of the periods mentioned in paragraph (a) or (b) of Exception.

subsection (1) derived from mining operations or on income so earned derived from logging operations or on income so earned derived from both mining and logging operations, as defined in the agreement.

Amend-
ments.

(3) The Minister, with the approval of the Governor in Council, may, on behalf of the Government of Canada, enter into an agreement, not inconsistent with the provisions of this Act, amending the terms and conditions of a tax rental agreement.⁽²⁾

Compensa-
tion payable
under tax
rental
agreement.

7. (1) The compensation payable by Canada to a province under a tax rental agreement shall be an annual amount payable in respect of each of the fiscal years in respect of which the agreement is entered into, which annual amount shall be in respect of any fiscal year,

- (a) the standard individual income tax applicable to the fiscal year if, under the agreement, the province and municipalities refrain from levying individual income taxes as therein defined for a period related by the agreement to the fiscal year;
- (b) the standard corporation income tax applicable to the fiscal year if, under the agreement, the province and municipalities refrain from levying corporation income taxes and corporation taxes as therein defined for a period related by the agreement to the fiscal year; and
- (c) the average of the standard succession duty applicable to the fiscal year and the two fiscal years immediately preceding it if, under the agreement, the province and municipalities refrain from levying succession duties as therein defined in respect of the fiscal year.

For part
of year.

(2) The amount of compensation payable by Canada to a province under a tax rental agreement in respect of part of a year shall not exceed the amount that is in the same proportion to the amount that would have been payable in respect of the whole year if the agreement had been entered into with respect to the whole year, as the part of the year is to the whole year.

TAX COLLECTION AGREEMENTS

Tax
collection
agreements.

8. Where a province imposes taxes on the income of individuals or corporations or both at the rate provided by the *Income Tax Act* for computing the amount that may be deducted from individual income tax or corporation income tax on account of such provincial taxes, under a statute that in the opinion of the Minister is substantially similar to the corresponding provisions in the *Income Tax Act*, the Minister, with the approval of the Governor in Council, may, on behalf of the Government of

(2) Subsection (3) of section 6 replaced by section one of chapter 13 of the statutes of 1960.

Canada, enter into an agreement with the government of the province pursuant to which the Government of Canada will collect the provincial taxes on behalf of the province and will make payments to the province in respect of the taxes so collected, in accordance with such terms and conditions as the agreement prescribes.

PROVINCIAL CORPORATION TAXES

9. Where a tax that a province or a municipality in the province levies and collects on corporations (other than a tax that is excluded by the regulations from the operation of this section) is allowed, in whole or in part, as a deduction in computing the income of a corporation under the *Income Tax Act* for any of the taxation years 1957 to 1961, the amount, as determined by the Minister, by which the income tax payable by the corporation under the *Income Tax Act* is reduced by reason of the tax being so allowed as a deduction may be deducted from any payment to the province under this Act or otherwise recovered as a debt due to Canada by the province.⁽³⁾

Provincial
corporation
taxes.

REGULATIONS

10. The Governor in Council may make such regulations as he deems necessary for carrying out the purposes and provisions of this Act and, without restricting the generality of the foregoing, may make regulations respecting

Regulations.

- (a) payment to a province of advances on account of any amount that may become payable to the province in respect of a fiscal year, the adjustment of other payments by reason of such advances, and the recovery of overpayments;
- (b) the time and manner of making any payment under this Act;
- (c) the determination of any matter that under this Act is to be determined by the Minister; and
- (d) any matter that, by this Act, is to be defined or prescribed by or done in accordance with the regulations.⁽⁴⁾

(3) Section 2 of c. 13 of the Statutes of 1960 added a new section, section 9A which dealt with "Grants to Universities". *See infra*.

(4) Chapter 29 of the Statutes of 1957-58 added two new sections, eleven and twelve, providing additional grants to the Atlantic Provinces and increased the ten per cent allowance to thirteen per cent. *See* the following enactment.

Chapter 26 of 1959 (*infra*) repealed section twelve and substituted a new section therefor. Section 12 was again replaced by s. 3 of c. 13 of the Statutes of 1960.

**THE FEDERAL-PROVINCIAL TAX-SHARING
ARRANGEMENTS ACT, 1956,
AMENDMENT ACT**

6 ELIZABETH II, CHAPTER 29

**An Act to amend the Federal-Provincial Tax-Sharing
Arrangements Act**

[Assented to 31st January, 1958.]

1956, c. 29.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The *Federal-Provincial Tax-Sharing Arrangements Act* is amended by adding thereto the following sections:

Additional
grants to
Atlantic
Provinces.

"11. The Minister of Finance shall, for each of the four successive fiscal years commencing on the 1st day of April, 1958 and in addition to all other grants, subsidies and allowances, pay an annual grant of seven and one-half million dollars to each of the Provinces of Nova Scotia, New Brunswick and Newfoundland and an annual grant of two and one-half million dollars to the Province of Prince Edward Island.

Alteration
of Act in its
application
to fiscal year
1958-59.

"12. *In its application to the fiscal year commencing on the 1st day of April, 1958, paragraph (f) of subsection (1) of section 2 shall, for the purposes of this Act and any tax rental agreement, be read and construed as if for the words "ten per cent" therein there were substituted the words "thirteen per cent".*"⁽¹⁾

(1) Repealed and new. See 1959, c. 26 which follows.

THE FEDERAL-PROVINCIAL TAX-SHARING
ARRANGEMENTS ACT, 1956,
AMENDMENT ACT

7-8 ELIZABETH II, CHAPTER 26

An Act to amend the Federal-Provincial Tax-Sharing
Arrangements Act

[Assented to 8th July, 1959.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1956, c. 29.
1957-58,
c. 29.

1. Section 12 of the *Federal-Provincial Tax-Sharing Arrangements Act* is repealed and the following substituted therefor:

1957-58,
c. 29, s. 1.

"12. In its application to each of the fiscal years in the period commencing on the 1st day of April, 1958, and ending on the 31st day of March, 1960, paragraph (f) of subsection (1) of section 2 shall, for the purposes of this Act and any tax rental agreement, be read and construed as if the words "ten per cent" therein there were substituted the words "thirteen per cent"."(1)

Alteration
of Act in its
application
to fiscal
years ending
March 31,
1960.

(1) Repealed and new. See 1960, c. 13 (s. 3) which follows.

THE FEDERAL-PROVINCIAL TAX-SHARING ARRANGEMENTS ACT, 1956, AMENDMENT ACT

8-9 ELIZABETH II, CHAPTER 13

An Act to amend the Federal-Provincial Tax-Sharing Arrangements Act

[Assented to 27th May, 1960.]

1956, c. 29;
1957-58,
c. 29;
1959, c. 26.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Subsection (3) of section 6 of the *Federal-Provincial Tax-Sharing Arrangements Act* is repealed and the following substituted therefor:

Amendment
of
agreements.

“(3) The Minister, with the approval of the Governor in Council, may on behalf of the Government of Canada enter into an agreement, not inconsistent with the provisions of this Act, amending the terms and conditions of a tax rental agreement, or, in accordance with and subject to such terms and conditions as may be so approved, varying a tax rental agreement to provide, in respect of any calendar year ending in a fiscal year for which a province is a province described in subparagraph (ii) of paragraph (b) of subsection (1) of section 9A, for the deletion from the classes of taxes and duties from the levying of which the province has agreed to refrain, of the class of taxes specified in paragraph (b) of subsection (1) of this section.”

2. The said Act is further amended by adding thereto, immediately after section 9 thereof, the following heading and section:

“GRANTS TO UNIVERSITIES

Definitions.

9A. (1) In this section,

“Founda-
tion.”

(a) “Foundation” means the Canadian Universities Foundation incorporated by letters patent dated the 4th day of February, 1959, under the seal of the Secretary of State of Canada; and

“Prescribed
province.”

(b) “prescribed province” means a province prescribed by a regulation made on the recommendation of the Minister for a fiscal year commencing on or after the first day of April, 1960 as a province

- (i) that has not entered into a tax rental agreement under which the province agrees to refrain from levying corporation income taxes in respect of the calendar year ending in that fiscal year or that has entered into an agreement varying a tax rental agreement to provide, in respect of that calendar year, for the deletion from the classes of taxes and duties from the levying of which the province has agreed to refrain, of the class of taxes specified in paragraph (b) of subsection (1) of section 6, and
- (ii) in which, for that fiscal year, satisfactory arrangements exist in the opinion of the Minister for the payment by the province directly to institutions of higher learning in the province, in accordance with and subject to terms and conditions not inconsistent with those contained in any agreement entered into under subsection (2), of amounts by way of grants in addition to any grants made by the province to such institutions as part of its ordinary expenditure, the total of which amounts is equal to or greater than an amount calculated by multiplying the population of the province for the calendar year ending in that fiscal year by one dollar and fifty cents.

(2) The Minister, with the approval of the Governor in Council, may on behalf of the Government of Canada enter into an agreement with the Foundation, providing, for any fiscal year commencing on or after the first day of April, 1960, for the payment of amounts to the Foundation for the purpose of making grants to institutions of higher learning in any province that is not, for that fiscal year, a prescribed province, in accordance with and subject to such terms and conditions as may be so approved, and providing that the total amount of grants to all institutions of higher learning in any one such province for that fiscal year shall be an amount calculated by multiplying the population of the province for the calendar year ending in that fiscal year by one dollar and fifty cents.

Payments
to the
Foundation.

(3) Where a province was, for any fiscal year commencing on or after the first day of April, 1960, a prescribed province,

- (a) the Minister may pay to the province in respect of that fiscal year any amount by which an amount calculated by multiplying the population of the province for the calendar year ending in that fiscal year by one dollar and fifty cents exceeds one-ninth of the standard corporation income tax as applied to the province for that fiscal year, and
- (b) there may be deducted from any payment to the province under this Act or otherwise recovered as a debt due

Payments to
prescribed
provinces
of amount
of excess;
recovery of
excess, etc.

to Canada by the province, any amount by which one-ninth of the standard corporation income tax as applied to the province for that fiscal year exceeds an amount calculated by multiplying the population of the province for the calendar year ending in that fiscal year by one dollar and fifty cents."

1959, c. 26,
s. 1.

3. Section 12 of the said Act is repealed and the following substituted therefor:

Alteration
of Act in its
application
to fiscal
years ending
March 31,
1962.

"12. In its application to each of the fiscal years in the period commencing on the 1st day of April, 1958, and ending on the 31st day of March, 1962, paragraph (f) of subsection (1) of section 2 shall, for the purposes of this Act and any tax rental agreement, be read and construed as if for the words "ten per cent" therein there were substituted the words "thirteen per cent"."

THE FEDERAL-PROVINCIAL
FISCAL ARRANGEMENTS ACT

9-10 ELIZABETH II, CHAPTER 58⁽¹⁾

An Act to authorize the Minister of Finance to make payments to the Governments of the Provinces and to authorize the Government of Canada to enter into tax collection agreements with the Governments of the Provinces

[Assented to 29th September, 1961.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. This Act may be cited as the *Federal-Provincial Fiscal Arrangements Act*. Short title.

INTERPRETATION

2. (1) In this Act,
- | | |
|---|------------------------------------|
| (a) "fiscal year" means the period of twelve months commencing on the 1st day of April and ending on the 31st day of March next following; | Definitions.
"Fiscal year." |
| (b) "Minister" means the Minister of Finance; | "Minister." |
| (c) "natural resources revenues", as applied to a province for a fiscal year, means the natural resources revenues for the fiscal year as shown in the Table "Gross General Revenue" in the publication of the Dominion Bureau of Statistics entitled "Financial Statistics of Provincial Governments"; | "Natural resources revenues." |
| (d) "province" does not include the Northwest Territories or the Yukon Territory; | "Province." |
| (e) "standard corporation income tax", as applied to a province for a fiscal year, means the amount, as determined by the Minister, that would be derived from a tax on the income earned in the province | "Standard corporation income tax." |

(1) The purpose of this Act was to provide the necessary authority for carrying out the new fiscal arrangements with the provinces. This is for the five-year period commencing at the conclusion of the arrangements with the provinces under the *Federal-Provincial Tax-Sharing Arrangements Act*. The Act authorizes the implementation of the offer made by the Government of Canada to the governments of the provinces as a result of the several conferences that have been held previous to its enactment.

by each corporation (other than a non-resident-owned investment corporation as defined in the *Income Tax Act* or a corporation specified in Schedule D to the *Financial Administration Act* that is an agent of Her Majesty in right of Canada) that maintained a permanent establishment in the province at any time during its taxation year, for the purposes of the *Income Tax Act*, ending in the calendar year that ends in the fiscal year, at the rate of nine per cent on its taxable income earned in the province in that taxation year, such tax to be computed as if imposed under the *Income Tax Act* and regulations thereunder;

“Standard
estate tax.”

- (f) “standard estate tax”, as applied to a province for a fiscal year, means the amount, as determined by the Minister, that would be derived from a tax equal to fifty per cent of the total amount of estate tax payable pursuant to the *Estate Tax Act* in respect of
- (i) property situated in the province and included in the estates of persons dying in the fiscal year domiciled in the province,
 - (ii) property (other than real property) situated outside Canada passing to persons domiciled or resident in the province and included in the estates of persons dying in the fiscal year domiciled in the province, and
 - (iii) property situated in the province included in the estates of persons dying in the fiscal year domiciled outside the province;

“Standard
individual
income tax.”

- (g) “standard individual income tax”, as applied to a province for a fiscal year, means the amount, as determined by the Minister, that would be derived from a tax
- (i) on the incomes (other than incomes from businesses) of individuals resident in the province on the last day of the taxation year, within the meaning of the *Income Tax Act*, ending in the fiscal year,
 - (ii) on the incomes (other than incomes from businesses) earned in the province in that taxation year by individuals not resident in Canada at any time during that taxation year, within the meaning of the *Income Tax Act*, and
 - (iii) on the incomes from businesses earned in the province in that taxation year by individuals, within the meaning of the *Income Tax Act*,
- equal to
- (iv) sixteen eighty-fourths, in respect of the taxation year ending in the fiscal year that ends in 1963,

- (v) seventeen eighty-thirds, in respect of the taxation year ending in the fiscal year that ends in 1964,
 - (vi) eighteen eighty-seconds, in respect of the taxation year ending in the fiscal year that ends in 1965,
 - (vii) nineteen eighty-firsts, in respect of the taxation year ending in the fiscal year that ends in 1966, and
 - (viii) twenty eightieths, in respect of the taxation year ending in the fiscal year that ends in 1967,
- of the total amount of tax payable under the *Income Tax Act* on those incomes, but not including the Old Age Security tax imposed by subsection (3) of section 10 of the *Old Age Security Act*;
- (h) "standard taxes", as applied to a province for a fiscal year, means the aggregate of
 - (i) the standard individual income tax and the standard corporation income tax applicable to the province for the fiscal year, and
 - (ii) the average of the standard estate tax applicable to the province for the fiscal year and the two fiscal years immediately preceding it; and
 - (i) "tax collection agreement" means an agreement entered into pursuant to section 6.
- (2) For the purposes of this Act,
- (a) the population of a province
 - (i) for a calendar year in which a census thereof was taken, means the population as ascertained by the census, and
 - (ii) for any other calendar year, means the population on the 1st day of June in that year as estimated by the Dominion Statistician, on the assumption that the population changed by the same number of persons annually between censuses; and
 - (b) the population of a province for a fiscal year is the population determined in accordance with this subsection for the calendar year in which the fiscal year begins.

PAYMENTS TO PROVINCES

3. (1) Subject to this Act, the Minister may pay to a province in respect of each fiscal year in the period commencing on the 1st day of April, 1962 and ending on the 31st day of March, 1967,
- (a) a tax equalization payment not exceeding the amount computed in accordance with section 4, and

- (b) a provincial revenue stabilization payment not exceeding the amount computed in accordance with section 5.

Atlantic
Provinces
additional
grants.

(2) The Minister may pay, in respect of each fiscal year in the period commencing on the 1st day of April, 1962 and ending on the 31st day of March, 1967, in addition to all other payments, grants, subsidies and allowances, an annual grant of ten and one-half million dollars to each of the Provinces of Nova Scotia, New Brunswick and Newfoundland and an annual grant of three and one-half million dollars to the Province of Prince Edward Island.

Additional
grants to
Newfound-
land.

(3) The Minister may pay, in respect of each fiscal year in the period commencing on the 1st day of April, 1962 and ending on the 31st day of March, 1967, in addition to all other payments, grants, subsidies and allowances, an annual grant of eight million dollars to the Province of Newfoundland.

Succession
duties
payments.

(4) Where a province does not levy a succession duty, as defined in the regulations, in respect of successions or transmissions consequent upon, or on property passing upon, any death occurring during a fiscal year in the period commencing on the 1st day of April, 1962 and ending on the 31st day of March, 1967, the Minister may pay to the province, in respect of the fiscal year, an amount equal to the standard estate tax applicable to the province for the fiscal year.

Consoli-
dated
Revenue
Fund.

(5) The amounts authorized to be paid by this section shall be paid out of the Consolidated Revenue Fund at such times and in such manner as may be prescribed by the regulations.

TAX EQUALIZATION PAYMENTS

Tax equali-
zation
payments.

4. (1) The tax equalization payment applicable to a province for a fiscal year is an amount equal to the greatest of

- (a) the basic equalization amount applicable to the province for the fiscal year computed in accordance with subsection (2),
- (b) the guaranteed equalization amount applicable to the province for the fiscal year computed in accordance with subsection (3), or
- (c) where the per capita amount determined in accordance with paragraph (c) of subsection (2) in respect of the province for the fiscal year is less than the per capita amount determined in accordance with paragraph (d) of that subsection in respect of the province for the fiscal year, the guaranteed equalization amount applicable to the province for the fiscal year computed in accordance with subsection (4).

(2) The basic equalization amount applicable to a province for a fiscal year referred to in paragraph (a) of subsection (1) is the amount, as determined by the Minister, that when added to the total of

Basic
equalization
amount.

- (a) the standard taxes of the province for the fiscal year, and
- (b) fifty per cent of the average natural resources revenues of the province for the three fiscal years immediately preceding the fiscal year,

will cause

- (c) the per capita amount derived by dividing
 - (i) the sum so obtained,by
 - (ii) the population of the province for the fiscal year,

to equal

- (d) the per capita amount derived by dividing the total of
 - (i) the standard taxes of all the provinces for the fiscal year, and
 - (ii) fifty per cent of the average natural resources revenues of all the provinces for the three fiscal years immediately preceding the fiscal year,by
 - (iii) the total population of all the provinces for the fiscal year.

(3) The guaranteed equalization amount applicable to a province for a fiscal year referred to in paragraph (b) of subsection (1) is the amount, as determined by the Minister, that when added to the total of

Guaranteed
equalization
amount.

- (a) the standard taxes of the province for the fiscal year, and
- (b) the amount of any grant that may be paid to the province in respect of the fiscal year pursuant to subsection (2) of section 3,

will equal the greater of

- (c) the total of the following amounts applicable to the province for the fiscal year ending in 1962 pursuant to the *Federal-Provincial Tax-Sharing Arrangements Act*, namely,
 - (i) the amount of the standard taxes as defined in that Act,
 - (ii) the amount of the tax equalization payment under section 4 of that Act,
 - (iii) the amount of the provincial revenue stabilization payment under section 5 of that Act, and

- (iv) the amount of any grant under section 11 of that Act, or
- (d) the average of the totals of the following amounts applicable to the province for each of the fiscal years ending in 1961 and 1962 pursuant to the *Federal-Provincial Tax-Sharing Arrangements Act*, namely,
 - (i) the amount of the standard taxes as defined in that Act,
 - (ii) the amount of the tax equalization payment under section 4 of that Act,
 - (iii) the amount of the provincial revenue stabilization payment under section 5 of that Act, and
 - (iv) the amount of any grant under section 11 of that Act.

Idem.

(4) The guaranteed equalization amount applicable to a province for a fiscal year referred to in paragraph (c) of subsection (1) is the amount, as determined by the Minister, that when added to the total of

- (a) the standard taxes of the province for the fiscal year, and
- (b) the amount of any grant that may be paid the province in respect of the fiscal year pursuant to subsection (2) of section 3,

will equal the total of the following amounts that would have been applicable to the province for the fiscal year pursuant to the *Federal-Provincial Tax-Sharing Arrangements Act* if that Act applied to the province for the fiscal year, namely,

- (c) the amount of the standard taxes as defined in that Act,
- (d) the amount of the tax equalization payment under section 4 of that Act, and
- (e) the amount of any grant under section 11 of that Act.

PROVINCIAL REVENUE STABILIZATION PAYMENTS

Provincial
revenue
stabilization
payments.

5. (1) The provincial revenue stabilization payment applicable to a province for a fiscal year is the amount as determined by the Minister, by which

- (a) ninety-five per cent of the average of the totals of the standard taxes, the tax equalization payments and the provincial revenue stabilization payments applicable to the province for the two fiscal years immediately preceding the fiscal year,

exceeds

- (b) the total of the standard taxes and the tax equalization payment applicable to the province for the fiscal year.

(2) A reference in paragraph (a) of subsection (1) to the standard taxes, the tax equalization payment and the provincial revenue stabilization payment applicable to a province for a fiscal year shall, where that fiscal year commenced before 1962, be construed as a reference to the standard taxes as defined in the *Federal-Provincial Tax-Sharing Arrangements Act*, the tax equalization payment under section 4 of that Act, and the provincial revenue stabilization payment under section 5 of that Act, applicable to the province for that fiscal year pursuant to the *Federal-Provincial Tax-Sharing Arrangements Act*. Idem.

TAX COLLECTION AGREEMENTS

6. (1) Where a province imposes taxes on the income of individuals or corporations or both, the Minister, with the approval of the Governor in Council, may, on behalf of the Government of Canada, enter into an agreement with the government of the province pursuant to which the Government of Canada will collect the provincial taxes on behalf of the province and will make payments to the province in respect of the taxes so collected, in accordance with such terms and conditions as the agreement prescribes. Tax collection agreements.

(2) The Minister, with the approval of the Governor in Council, may, on behalf of the Government of Canada, enter into an agreement amending the terms and conditions of an agreement entered into pursuant to subsection (1). Amendments to agreements.

7. Where a province has entered into a tax collection agreement, the Minister, in accordance with the regulations, may make advance payments to the province out of the Consolidated Revenue Fund on account of any amount that may become payable to the province pursuant to the agreement. Advance payments under agreements.

PROVINCIAL CORPORATION TAXES

8. Where a tax that a province or a municipality in the province levies and collects on corporations (other than a tax that is excluded by the regulations from the operation of this section) is allowed, in whole or in part, as a deduction in computing the income of a corporation for the purposes of the *Income Tax Act* for any of the taxation years 1962 to 1966, the amount, as determined by the Minister, by which the income tax payable by the corporation under the *Income Tax Act* is reduced by reason of the tax being so allowed as a deduction, may be deducted from any payment to the province pursuant to this Act or otherwise recovered as a debt due to Canada by the province. Provincial corporation taxes.

Regulations.

9. The Governor in Council may make such regulations as he deems necessary for carrying out the purposes and provisions of this Act and, without restricting the generality of the foregoing, may make regulations respecting

- (a) payment to a province of advances on account of any amount that may become payable to the province pursuant to this Act or a tax collection agreement, the adjustment of other payments by reason of such advances, and the recovery of overpayments;
- (b) the time and manner of making any payment under this Act or a tax collection agreement;
- (c) the accounts to be kept and their management;
- (d) the determination of any matter that, under this Act, is to be determined by the Minister; and
- (e) any matter that, by this Act, is to be defined or prescribed by or done in accordance with the regulations.

BOUNDARIES

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THE ONTARIO BOUNDARIES EXTENSION ACT

2 GEORGE V, CHAPTER 40

An Act to extend the Boundaries of the Province of Ontario⁽¹⁾

[Assented to 1st April, 1912.]

Preamble. WHEREAS, on the thirteenth day of July, one thousand nine hundred and eight, the House of Commons resolved that the limits of the province of Ontario should be increased by the extension of the boundaries of the province so as to include the territory hereinafter described, as in the said resolution is more particularly set out, upon such terms and conditions as may be agreed to by the Legislature of Ontario and by the Parliament of Canada: Therefore, subject to the consent of the said Legislature, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title. 1. This Act may be cited as *The Ontario Boundaries Extension Act*.

Boundaries extended. 2. The limits of the province of Ontario are hereby increased so that the boundaries thereof shall include, in addition to the present territory of the said province, the territory bounded and described as follows: Commencing at the most northerly point of the western boundary of the province of Ontario as determined by "The Canada (Ontario Boundary) Act, 1889," chapter 28 of the Statutes of 1889 of the United Kingdom (the said westerly boundary being the easterly boundary of the province of Manitoba); thence continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of Dominion Land Surveys; thence north-easterly in a right line to the most eastern point of Island lake, as shown in approximate latitude 53° 30' and longitude 93° 40' on the railway map of the Dominion of Canada, published, on the scale of thirty-five miles to one inch, in the year one thousand nine hundred and eight, by the authority of the Minister of the Interior; thence northeasterly

U.K. 1889,
c. 28.

(1) See The Canada (Ontario Boundary) Act, 1889, c. 28 of the Statutes of 1889 of the United Kingdom, also The B.N.A. Act, 1871 (c. 28) which declared that the Parliament of Canada may from time to time, with the consent of the legislature of any province, increase, diminish or otherwise alter the limits of such province. See also 1950, c. 16 and 1954, c. 9, *infra*.

in a right line to the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson bay; thence easterly and southerly following the shore of the said bay to the point where the northerly boundary of the province of Ontario as established under the said Act intersects the shore of James bay; thence westward along the said boundary as established by the said Act to the place of commencement; and all the land embraced by the said description shall, from and after the commencement of this Act, be added to the province of Ontario, and shall, from and after the said commencement, form and be part of the said province of Ontario, upon the following terms and conditions and subject to the following provisions:

- (a) That the province of Ontario will recognize the rights of the Indian inhabitants in the territory above described to the same extent, and will obtain surrenders of such rights in the same manner, as the Government of Canada has heretofore recognized such rights and has obtained surrender thereof, and the same province shall bear and satisfy all charges and expenditure in connection with or arising out of such surrenders; Indian rights in new territory.
- (b) That no such surrender shall be made or obtained except with the approval of the Governor in Council; Surrenders.
- (c) That the trusteeship of the Indians in the said territory, and the management of any lands now or hereafter reserved for their use, shall remain in the Government of Canada subject to the control of Parliament. Trusteeship.

3. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Ruperts Land to the Crown. Hudson's Bay Co. rights preserved.

4. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council in *The Canada Gazette*, but such proclamation shall not be made until after the Legislature of Ontario shall have consented to the increase of the limits of the province herein provided for, and agreed to the terms, conditions and provisions aforesaid. Commencement of Act.

Consent of Ontario legislature.

THE QUEBEC BOUNDARIES EXTENSION ACT, 1912

2 GEORGE V, CHAPTER 45

An Act to extend the Boundaries of the Province of Quebec⁽¹⁾

[Assented to 1st April, 1912.]

Preamble.

WHEREAS on the thirteenth day of July, one thousand nine hundred and eight, the House of Commons resolved that the limits of the province of Quebec should be increased by the extension of the boundaries of the province northwards so as to include the territory hereinafter described, as in the said resolution is more particularly set out, upon such terms and conditions as may be agreed to by the Legislature of Quebec and by the Parliament of Canada: Therefore, subject to the consent of the said Legislature, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Quebec Boundaries Extension Act, 1912*.

Boundaries
extended.

2. The limits of the province of Quebec are hereby increased so that the boundaries thereof shall include, in addition to the present territory of the said province, the territory bounded and described as follows: Commencing at the point at the mouth of East Main river where it empties into James bay, the said point being the western termination of the northern boundary of the province of Quebec as established by chapter 3 of the Statutes of 1898, intituled *An Act respecting the north-western, northern and north-eastern boundaries of the province of Quebec*; thence northerly and easterly along the shores of Hudson bay and Hudson strait; thence southerly, easterly and northerly along the shore of Ungava bay and the shore of the said strait; thence easterly along the shore of the said strait to the boundary of the territory over which the island of Newfoundland has lawful jurisdiction; thence south-easterly along the westerly boundary of the said last mentioned territory to the middle of the Bay du Rigolet or Hamilton Inlet; thence westerly along the northern boundary of the province of Quebec as established by the said Act to the place of commencement; and all the land embraced

1898, c. 3.

(1) See The B.N.A. Act, 1871 (referred to in the preceding note), also c. 3 of the Statutes of 1898, and also c. 6 of the Statutes of Quebec, 1898. See also 1946, c. 29, *infra*.

by the said description shall, from and after the commencement of this Act, be added to the province of Quebec, and shall, from and after the said commencement, form and be part of the said province of Quebec upon the following terms and conditions and subject to the following provisions:

- | | |
|---|--|
| <p>[(a) <i>That the population of the territory hereby added to the province of Quebec shall be excluded in ascertaining the population of the said province for the purposes of any readjustment of representation of the other provinces consequent upon any census;</i></p> | <p>Population as affecting representation.</p> |
| <p>(b) <i>That in the general census of the population of Canada which is required to be taken in the year one thousand nine hundred and twenty-one and in every tenth year thereafter the population of the territory hereby added to the province of Quebec shall be distinguished from that of the said province as heretofore constituted, and the representation of the said territory in the House of Commons shall be determined according to the rules enacted by section 51 of "The British North America Act, 1867," regulating the representation of the provinces other than Quebec;]</i>⁽²⁾</p> | <p>Population under decennial census.</p> <p>Paragraphs (a) and (b) repealed by 1946, c. 29.</p> <p>B.N.A. Act, s. 51.</p> |
| <p>(c) That the province of Quebec will recognize the rights of the Indian inhabitants in the territory above described to the same extent, and will obtain surrenders of such rights in the same manner, as the Government of Canada has heretofore recognized such rights and has obtained surrender thereof, and the said province shall bear and satisfy all charges and expenditures in connection with or arising out of such surrenders;</p> | <p>Indian rights of new territory.</p> |
| <p>(d) That no such surrender shall be made or obtained except with the approval of the Governor in Council;</p> | <p>Surrenders.</p> |
| <p>(e) That the trusteeship of the Indians in the said territory, and the management of any lands now or hereafter reserved for their use, shall remain in the Government of Canada subject to the control of Parliament.</p> | <p>Trusteeship.</p> |

3. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Ruperts Land to the Crown.

Hudson's Bay Co. rights preserved.

4. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council published in *The Canada Gazette*, but such proclamation shall not be made until after the Legislature of Quebec shall have consented to the increase of the limits of the province herein provided for, and agreed to the terms, conditions and provisions aforesaid.

Commencement of Act.

Consent of Quebec legislature.

(2) Paragraphs (a) and (b) of s. 2 have been repealed by s. 1 of c. 29 of the Statutes of 1946 which follows immediately.

THE QUEBEC BOUNDARIES EXTENSION ACT, 1912, AMENDMENT ACT

10 GEORGE VI, CHAPTER 29

An Act to amend The Quebec Boundaries Extension Act, 1912⁽¹⁾

[Assented to 26th July, 1946.]

1912, c. 45. HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Paragraphs repealed. 1. Paragraphs (a) and (b) of section two of *The Quebec Boundaries Extension Act, 1912*, chapter forty-five of the Statutes of 1912, are repealed.

Coming into force. 2. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council published in *The Canada Gazette*, but such proclamation shall not be made until the Legislature of Quebec agrees to the said repeal of paragraphs (a) and (b) of section two of the said Act.

(1) The paragraphs repealed read as follows:

“(a) That the population of the territory hereby added to the province of Quebec shall be excluded in ascertaining the population of the said province for the purposes of any readjustment of representation of the other provinces consequent upon any census;

“(b) That in the general census of the population of Canada which is required to be taken in the year one thousand nine hundred and twenty-one and in every tenth year thereafter the population of the territory hereby added to the province of Quebec shall be distinguished from that of the said province as heretofore constituted, and the representation of the said territory in the House of Commons shall be determined according to the rules enacted by s. 51 of “The B.N.A. Act, 1867,” regulating the representation of the provinces other than Quebec;”

THE MANITOBA BOUNDARIES EXTENSION
ACT, 1912

2 GEORGE V, CHAPTER 32

An Act to provide for the extension of the Boundaries of the
Province of Manitoba⁽¹⁾

[Assented to 1st April, 1912.]

WHEREAS, on the thirteenth day of July, one thousand nine hundred and eight, the House of Commons resolved that the limits of the province of Manitoba should be increased by the extension of the boundaries of the province northward to the sixtieth parallel of latitude and north-eastward to the shores of Hudson Bay, as in the said resolution is more particularly set out, upon such terms and conditions as may be agreed to by the Legislature of Manitoba and by the Parliament of Canada;

Preamble.

AND WHEREAS it is desirable that the financial terms applicable to the said province, as altered by the increase of territory, aforesaid, should be on a basis of substantial equality with the financial terms enjoyed by each of the provinces of Saskatchewan and Alberta under *The Saskatchewan Act* and *The Alberta Act*, respectively, inasmuch as the areas of these respective provinces is approximately equal to that of the province of Manitoba as by this Act increased, and inasmuch as each of the said three provinces at the time of its establishment as a province was without public debt, and inasmuch as the Crown lands, mines and minerals and royalties incident thereto in the province of Manitoba are, as is the case in the other two said provinces, vested in the Crown and administered by the Government of Canada for the purposes of Canada: Therefore, subject to the consent of the Legislature of Manitoba, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1905, c. 42.
1905, c. 3.

SHORT TITLE

1. This Act may be cited as *The Manitoba Boundaries Extension Act, 1912*.

Short title.

INTERPRETATION

2. In this Act, unless the context otherwise requires,—

(a) “the province” means the province of Manitoba;

Interpretation.
“province.”

(1) See 1930, c. 28 which follows and 1950, c. 16, *infra*.

"Govern-
ment."

(b) "the Government" means His Majesty the King acting in respect of the Dominion of Canada by and through the Governor General in Council.

BOUNDARIES

Boundaries
extended.

U.K., 1889,
c. 28.

3. The limits of the province are hereby increased so that the boundaries of the province shall be as follows: Commencing where the sixtieth parallel of north latitude intersects the western shore of Hudson Bay; thence westerly along the said parallel of latitude to the northeast corner of the province of Saskatchewan; thence southerly along the easterly boundary of the province of Saskatchewan to the international boundary dividing Canada from the United States; thence easterly along the said international boundary to the point where the said international boundary turns due north; thence north along the said international boundary to the most northerly point thereof at or near the northwest angle of the Lake of the Woods; thence continuing due north along the westerly boundary of the province of Ontario, by virtue of "The Canada (Ontario Boundary) Act, 1889," chapter 28 of the Statutes of 1889 of the United Kingdom (the said westerly boundary being the easterly boundary of the province of Manitoba), to the most northerly point of the said boundary common to the two provinces under the said Act; thence continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of Dominion Land Surveys; thence northeasterly in a right line to the most easterly point of Island Lake, as shown in approximate latitude $53^{\circ} 30'$ and longitude $93^{\circ} 40'$ on the railway map of the Dominion of Canada published, on the scale of thirty-five miles to one inch, in the year one thousand nine hundred and eight, by the authority of the Minister of the Interior; thence northeasterly in a right line to the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay; thence westerly and northerly following the shores of the said Bay to the place of commencement; and all the land embraced by the said description not now within the province of Manitoba, shall from and after the commencement of this Act, be added thereto and the whole shall, from and after the said commencement, form and be the province of Manitoba.⁽²⁾

FINANCIAL PROVISIONS

Annual
payment to
province.

4. Inasmuch as the province was not in debt at the time the province was established, it shall be entitled to be paid and to receive from the Government of Canada, by half-yearly payments in advance on the first day of January and July in each year an annual sum of three hundred and eighty-one thousand

(2) This section amended by 14 Geo. VI, c. 16, s. 1 in this volume.

five hundred and eighty-four dollars and nineteen cents, being the equivalent of interest at the rate of five per cent per annum on the sum of seven million six hundred and thirty-one thousand six hundred and eighty-three dollars and eighty-five cents, the difference between a principal sum of eight million, one hundred and seven thousand five hundred dollars and the sum of four hundred and seventy-five thousand eight hundred and sixteen dollars and fifteen cents heretofore advanced by the Government to the province for provincial purposes.

2. This section shall be held to have come into force on the first day of July, one thousand nine hundred and eight, and shall have effect as if the first half-yearly payment thereunder was due to be made on that date.

Commence-
ment of
section.

3. There shall be deducted from the aggregate of the sums payable under this section at the commencement of this Act all sums received on and after the first day of July, one thousand nine hundred and eight, by the province from the Government by way of interest on capital allowance in lieu of debt.

Deduction
of interest
on capital
allowance.

5. Inasmuch as under the provisions of this Act the province will not have the public land as a source of revenue, there shall, subject to the provisions hereinafter set out, be paid out by the Government to the province, by half-yearly payments in advance, on the first days of January and July in each year, an annual sum based upon the population of the province as from time to time ascertained by the quinquennial census thereof, as follows:

Compensa-
tion to
province for
public lands.

The population of the province being assumed to be on the first day of July, nineteen hundred and eight, over four hundred thousand, the sum payable until such population reaches eight hundred thousand shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

2. Section 1 of chapter 50 of the Statutes of 1885 is repealed, and all lands (known as swamp lands) transferred to the province under the said section 1, and not sold by the province prior to the time at which the terms and conditions of this Act have been agreed to by the Legislature of the province, shall be re-transferred to the Government.

1885, c. 50
amended.

Transfer of
swamp lands
to Govern-
ment.

3. The sums payable to the province under subsection 1 of this section shall be subject to a deduction at the rate of five per cent per annum upon the difference between the aggregate of the sums for which the said swamp lands were sold by the province and the aggregate of the sums from time to time

Deduction
respecting
swamp lands.

charged to the province by the Government in connection with the selection, survey and transfer of such lands and of the sums expended by the province which may be fairly chargeable to the administration and sale of such swamp lands.

Determina-
tion of
amount.

4. The difference referred to in the next preceding subsection shall be determined by the Governor in Council after audit on behalf of the Government.

Deduction
respecting
lands
granted to
Manitoba
University.

5. The sums payable to the province under subsection 1 of this section shall also be subject to a deduction by reason of the allotment of land, to the extent of one hundred and fifty thousand acres, granted as an endowment to the University of Manitoba under section 2 of chapter 50 of the Statutes of 1885, to wit, to a deduction of five per cent per annum upon the sum of three hundred thousand dollars.

Commence-
ment of
payments
under s-s. 1.

6. This section shall be held to have come into force, in so far as the provisions directing and affecting the half-yearly payments in advance under subsection 1 of this section are concerned, on the first day of July, nineteen hundred and eight, and shall have effect as if the first half-yearly payment thereunder was due to be made on that date.

Deductions
respecting
indemnity
in lieu of
public lands.

7. There shall be deducted from the aggregate of the sums payable under the next preceding subsection at the commencement of this Act all sums received on and after the first day of July, nineteen hundred and eight, by the province from the Government on account of indemnity in lieu of public lands.

Allowance
for
provincial
public
buildings.

8. As an additional allowance in lieu of public land, there shall be paid by the Government to the province, one-half on the first day of July, nineteen hundred and twelve, and one-half on the first day of July, nineteen hundred and thirteen, to assist in providing for the construction of necessary public buildings, two hundred and one thousand seven hundred and twenty-three dollars and fifty-seven cents, a sum equal to the difference between the total payments made by the Government to each of the provinces of Saskatchewan and Alberta, under *The Saskatchewan Act* and *The Alberta Act*, respectively, for the like purposes and the sums already paid by the Government on account of the construction of the Legislative Buildings and the Government House at Winnipeg.

RIGHTS OF CROWN

Crown lands,
minerals
and waters.

6. All Crown lands, mines and minerals and royalties incident thereto in the territory added to the province under the provisions of this Act, and the interest of the Crown under *The Irrigation Act* in the waters within such territory, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act.

REPRESENTATION IN THE SENATE

7. The province shall continue to be represented in the Senate of Canada by four members; provided that such representation may, after the completion of the decennial census of June, nineteen hundred and eleven, be from time to time increased to six by the Parliament of Canada.

Senate
representa-
tion.

COMMENCEMENT OF ACT

8. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council published in *The Canada Gazette*, but such proclamation shall not be made until after the Legislature of Manitoba shall have consented to the increase of the limits of the province herein provided for, and agreed to the terms, conditions and provisions aforesaid.

Commence-
ment
of Act.

THE MANITOBA BOUNDARIES EXTENSION ACT, 1930

20-21 GEORGE V, CHAPTER 28

An Act to provide for the extension of the boundary of the Province of Manitoba in the Northwest Angle Inlet of Lake of the Woods⁽¹⁾

[Assented to 10th April, 1930.]

Preamble.

WHEREAS in and by virtue of Article I of the Treaty between His Britannic Majesty in respect of the Dominion of Canada and the United States of America for the further demarcation of the boundary between Canada and the United States of America, signed at Washington on the twenty-fourth day of February, 1925, the two parcels of land hereinafter described, situate, lying and being in the Northwest Angle Inlet of Lake of the Woods became the property of Canada;

AND WHEREAS the said parcels of land are situate within the boundaries of lands added to the Province of Manitoba by the *Manitoba Boundaries Extension Act, 1912*.

AND WHEREAS in pursuance of section three of *The British North America Act, 1871*, the Legislature of the Province of Manitoba has passed an Act, entitled, "An Act to provide for the extension of the Boundary of the Province of Manitoba in the Northwest Angle Inlet of Lake of the Woods," being chapter three of the Statutes of 1928, consenting to the increase in the limits of the said province;

AND WHEREAS it is expedient that the said parcels of land be added to and form part of the Province of Manitoba;

THEREFORE His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Manitoba Boundaries Extension Act, 1930*.

Boundaries
extended.

2. The pieces or parcels of land hereinbefore mentioned and more particularly described in the Schedule hereto, shall from and after the passing of this Act be added to and form part of the Province of Manitoba.

(1) See 1950 c. 16 *infra*.

SCHEDULE

PARCEL A

All and Singular, that certain piece or parcel of land covered by water, situate, lying and being in the Northwest Angle Inlet of Lake of the Woods and particularly described as follows: Commencing at a point, the second intersection from the south of the meridian through International Boundary Monument number nine hundred and twenty-five with the middle thread of the Northwest Angle Inlet of Lake of the Woods, said point being north two thousand nine hundred and four feet, more or less, of said International Boundary Monument number nine hundred and twenty-five, thence due north along the said meridian four hundred and seventy feet, more or less, to the third intersection from the south of the said meridian with the said middle thread of the said Northwest Angle Inlet of Lake of the Woods, thence following the sinuosities of the said middle thread of the said Northwest Angle Inlet of Lake of the Woods southerly a distance of seven hundred feet, more or less, to the place of beginning, containing by admeasurement two acres, be the same more or less.

PARCEL B

All and Singular, that certain piece or parcel of land covered by water, situate, lying and being in the Northwest Angle Inlet of Lake of the Woods and particularly described as follows: Commencing at a point, the fourth intersection from the south of the meridian through International Boundary Monument number nine hundred and twenty-five with the middle thread of the Northwest Angle Inlet of Lake of the Woods, said point being north three thousand seven hundred and twenty feet, more or less, of said International Boundary Monument number nine hundred and twenty-five, thence due north along the said meridian two hundred and ninety feet, more or less, to the fifth intersection from the south of the said meridian with the said middle thread of the said Northwest Angle Inlet of Lake of the Woods, thence following the sinuosities of the said middle thread of the said Northwest Angle Inlet of Lake of the Woods southerly a distance of three hundred and twenty-five feet, more or less to the place of beginning, containing by admeasurement one half acre, be the same more or less.

THE ALBERTA-BRITISH COLUMBIA BOUNDARY ACT, 1932

22-23 GEORGE V, CHAPTER 5

An Act respecting the Boundary between the Provinces of Alberta and British Columbia⁽¹⁾

[Assented to 4th April, 1932.]

Preamble.
B.C., 1931,
c. 8;
Alberta,
1931, c. 6.

WHEREAS by Order in Council P.C. 337, approved on the eighteenth day of February, 1913, an invitation was extended by the Government of the Dominion of Canada to the Governments of the Provinces of Alberta and British Columbia to participate in the joint survey of the boundary line between the Province of Alberta and the Province of British Columbia; And whereas the said invitation was accepted by the Government of the Province of Alberta by Order in Council No. 534-13, approved on the sixteenth day of June, 1913, and by the Government of the Province of British Columbia by Order in Council No. 812, approved on the second day of June, 1913; And whereas by Order in Council approved on the eleventh day of July, 1913, J. N. Wallace, D.L.S., was appointed Boundary Commissioner to represent the Dominion on the joint survey of the boundary line, and whereas by Order in Council, approved on the twentieth day

(1) The object of this Act was to ratify and confirm the boundary as surveyed and marked upon the ground by the Interprovincial Boundary Commission between the Provinces of Alberta and British Columbia as the true boundary, whether or not the same increased, diminished or otherwise altered the territory of the respective Provinces.

The Commission carried on the survey of the Boundary continuously from 1913 to 1924, at which time the Rocky Mountain section of the Boundary had been completed, together with 252 miles of the 120th Meridian survey to a point in Latitude 57°26'40". At this point the Government decided to discontinue the survey for the time being, there being about 174 miles of the 120th Meridian still to be surveyed through uninhabited and unproductive country.

The work of the Commission was done in such a way as to earn the complete confidence in its technical accuracy of the Surveyors General of the Dominion and British Columbia and the Director of Surveys for Alberta.

The report of the Commission, including an Atlas of Maps, was issued in three parts, signed copies of which were transmitted to the Governments of Alberta and British Columbia, as well as being of record in the Topographical Survey of the Department of the Interior.

The object of the survey was not only to delimit the Boundary on the ground but also to establish the surveyed Boundary as the true and unalterable Boundary between the two Provinces according to law so that no possible dispute in regard to its position can arise in the future.

Acts were passed by the Legislatures of Alberta and British Columbia consenting to the confirmation of this Boundary by the Parliament of the Dominion. Alberta, 1931, c. 6; British Columbia, 1931, c. 8. *See also* 1955, c. 24, *infra*.

of September, 1915, R. W. Cautley, D.L.S., was appointed Boundary Commissioner to represent the Dominion in the place of the said J. N. Wallace; And whereas A. O. Wheeler, B.C.L.S., as Commissioner for the Province of British Columbia, with the said J. N. Wallace, as Commissioner for the Dominion up to the twentieth day of September, 1915, and the said R. W. Cautley, as Commissioner for the Province of Alberta and, after the twentieth day of September, 1915, for the Dominion as well, did subsequently enter upon the work of the joint survey of the said boundary line and did complete the same in or about the year 1924 from the International Boundary on the forty-ninth parallel of north latitude, northerly to a point on the one hundred and twentieth meridian of west longitude in or about latitude north fifty-seven degrees, twenty-six minutes, and forty and twenty-five one hundreds seconds; And whereas the said Commissioners have made due report of their said survey, and have caused the line indicating the boundary between the said Provinces to the extent aforesaid to be surveyed and marked upon the ground and to be duly laid down upon maps signed by them as such Commissioners, which said reports and maps have been printed and copies thereof deposited in the office of the Surveyor-General of the Dominion in the Department of the Interior; And whereas by section three of *The British North America Act, 1871*, it was enacted that the Parliament of the Dominion of Canada may from time to time, with the consent of the Legislature of any Province of the Dominion, increase, diminish or otherwise alter the limits of the Province, upon such terms and conditions as may be agreed upon by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby; And whereas the said Provinces have given their consent, by Acts of their respective Legislatures passed in the year nineteen hundred and thirty-one, to the establishment of the above mentioned boundary line, and it is expedient that the said line so surveyed, marked and laid down should be established to the extent aforesaid as the boundary line between the Province of Alberta and the Province of British Columbia: Therefore, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act may be cited as *The Alberta-British Columbia Boundary Act, 1932*. Short title.

2. The line so surveyed, marked and laid down in the manner referred to in the preamble to this Act, to the extent thereof, is hereby declared to be the boundary line between the Province of Alberta and the Province of British Columbia, whether or not the same increases, diminishes, or otherwise alters the territory of either Province. Boundary line.

THE MANITOBA BOUNDARIES EXTENSION
ACT, 1912, AND THE
ONTARIO BOUNDARIES EXTENSION ACT,
AMENDMENT ACT

14 GEORGE VI, CHAPTER 16

An Act to amend The Manitoba Boundaries Extension Act,
1912, and The Ontario Boundaries Extension Act⁽¹⁾

[Assented to 1st June, 1950.]

1912, c. 32.
1912, c. 40.

HIS MAJESTY, by and with the advice and consent of the
Senate and House of Commons of Canada, enacts as follows:

Construc-
tion of
certain
sections.

1. Section three of *The Manitoba Boundaries Extension Act, 1912*, chapter thirty-two of the Statutes of 1912, and section two of *The Ontario Boundaries Extension Act*, chapter forty of the Statutes of 1912, shall be read and construed as though the reference in each of those sections to

“the most eastern point of Island Lake, as shown in approximate latitude 53° 30' and longitude 93° 40' on the railway map of the Dominion of Canada published, on the scale of thirty-five miles to one inch, in the year one thousand nine hundred and eight, by the authority of the Minister of the Interior”

were in each case a reference to

“the most eastern point of Island Lake, as fixed on the ground in the year 1930 by the erection of concrete monument number 295 of the Ontario-Manitoba Boundary Survey and situated in about north latitude 53° 44' 19"·42 and in about west longitude 93° 39' 14"·91”

and as though the reference in each of those sections to

“the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay”

were in each case a reference to

“a point twenty-one and four-tenths feet due west astronomic from the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay, as the latter point was fixed by the Geodetic Survey of Canada in the year 1929”.

(1) See 1953-54, c. 9 which follows.

2. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council, but such proclamation shall not be issued until after the Legislature of Ontario has consented to any increase, diminution or alteration of the limits of the Province of Ontario provided for by this Act and the Legislature of Manitoba has consented to any increase, diminution or alteration of the limits of the Province of Manitoba provided for by this Act.

Coming
into force.

THE ONTARIO-MANITOBA BOUNDARY ACT, 1953

2-3 ELIZABETH II, CHAPTER 9

An Act respecting the Boundary between the Provinces of Ontario and Manitoba

[Assented to 16th February, 1954.]

Preamble.

WHEREAS the interprovincial boundary between the Provinces of Ontario and Manitoba has been surveyed and marked on the ground by commissioners appointed for the purpose in accordance with the descriptions in the Schedule to the Act of the Parliament of the United Kingdom known as the *Canada (Ontario Boundary) Act, 1889*, and in the Acts of the Parliament of Canada known as *The Manitoba Boundaries Extension Act, 1912*, chapter 32 of the Statutes of 1912, *The Ontario Boundaries Extension Act*, chapter 40 of the Statutes of 1912, and *An Act to amend The Manitoba Boundaries Extension Act, 1912*, and *The Ontario Boundaries Extension Act*, chapter 16 of the Statutes of 1950, which boundary line as so surveyed and marked is described in the Schedule;

AND WHEREAS, the legislatures of the Provinces of Ontario and Manitoba having consented thereto, it is desirable that the boundary so surveyed and marked on the ground be declared the boundary between the Provinces of Ontario and Manitoba;

NOW THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as the *Ontario-Manitoba Boundary Act, 1953*.

Boundary
declared.

2. The boundary line surveyed and marked on the ground by commissioners appointed in 1897, 1921, 1929 and 1931 to delimit the boundary between the Provinces of Ontario and Manitoba and described in the Schedule is hereby declared to be the boundary line between the Provinces of Ontario and Manitoba, and in so far as the boundary line so described increases, diminishes or otherwise alters the limits of those Provinces, their limits are increased, diminished or otherwise altered accordingly.

Coming
into force.

3. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.⁽¹⁾

(1) This Act came into force on the 1st of June, 1954. *Canada Gazette*, Vol. 88, p. 1899.

SCHEDULE

Description by Metes and Bounds of the Boundary Line between the Province of Ontario and the Province of Manitoba.

Commencing at the most northerly point on the International Boundary between Canada and the United States at the northwest angle of the Lake of the Woods, as established by Dr. Tiarks and David Thompson under the direction of the commissioners appointed under Article VII of the Treaty of Peace and Amity between His Britannic Majesty and the United States of America signed at Ghent the 24th December, 1814, and confirmed by Article II of the Ashburton Treaty of 1842, said most northerly point being styled the Initial Point on the official plan of survey of the boundary between the Provinces of Ontario and Manitoba from Lake of the Woods to Winnipeg River, which said Initial Point may be more particularly known and described as being seventy-two chains and fifty links, more or less, due north of the most northerly point on the International Boundary at the northwest angle of the Lake of the Woods as determined by Article I of the Treaty between His Britannic Majesty in respect of the Dominion of Canada and the United States for the Further Demarcation of the Boundary between Canada and the United States, signed at Washington on February 24th, 1925, which said Initial Point is also one hundred and fifty chains and one link, more or less due north from an iron post extending four feet above ground and planted about five chains northerly from the north bank of the Northwest Angle River, bearing the following inscriptions: "October 20th, 1818" on the south side, and on the north side the words "convention of London" said post having been planted by the International Boundary Commissioners in 1872 to mark the boundary between the Dominion of Canada and the United States of America; which said Initial Point is also one hundred and ten chains and sixty-two links, more or less, due north from an iron post extending four feet above the ground bearing similar inscriptions and planted by the same authority as the above mentioned post.

Thence from said Initial Point due north astronomically along the boundary between the Provinces of Ontario and Manitoba, as marked on the ground by the commissioners appointed for the purpose in 1897 and 1921, a distance of two hundred and thirty-eight miles, thirteen chains and twenty-eight links, more or less, to a point at the centre of the road allowance on the north side of the twelfth Base Line of the system of Dominion land surveys, said point being thirty chains and fifty-seven links due north from a concrete monument on said boundary, which said monument is about three feet high above the ground and bearing the following inscriptions: on the east side "No. 218 ONTARIO", and on the west side, "No. 218 MANITOBA", the said point being marked by a concrete monument about three feet high above the ground and bearing the following inscriptions: on the southeast side, "No. 220 ONTARIO", and on the northwest side, "No. 220 MANITOBA", said boundary from the Initial Point to the Winnipeg River being marked at intervals of approximately one mile in length by iron posts and mounds, each post bearing the number corresponding to the number of miles which it is distant from said Initial Point on the south side, the letters "MAN" for Manitoba on the west side and the letters "ONT" for Ontario on the east side, and from the Winnipeg River northerly to the point marked by the monument bearing the inscriptions, on the southeast side

"No. 220 ONTARIO", and on the northwest side "No. 220 MANITOBA", the said boundary being marked at intervals of approximately six miles in length by concrete monuments bearing brass plates on which are the following inscriptions: on the east side, the number of the monument and the word "ONTARIO" and on the west side the number of the monument and the word "MANITOBA", said boundary from the Winnipeg River to the point marked by the monument bearing the inscriptions, on the southeast side, "No. 220 ONTARIO", and on the northwest side, "No. 220 MANITOBA" being also marked at intervals of approximately one mile in length with special posts and mounds, the posts bearing the inscriptions "Interprovincial Boundary" "Ontario-Manitoba", each post having also marked on it the number of the monument, the number of the bench mark and the year of the survey.

That part of the said boundary which lies between the Lake of the Woods and Winnipeg River is shown on the official plan of the survey of said boundary dated 30th April, 1898, and signed by Elihu Stewart, D.L.S., and B. J. Saunders, O.L.S., the commissioners appointed in 1897, and that part of said boundary lying between the Winnipeg River and the twelfth Base Line aforesaid being shown on a series of sixteen plans of survey published in atlas form in 1925 and signed by the Surveyor-General of Dominion Lands, and the Director of Surveys for the Province of Ontario, as the commissioners appointed in 1921, all of which plans are of record in the Department of Mines and Technical Surveys at Ottawa.

Thence in a right line on an initial azimuth of $44^{\circ} 25' 50''$ along the boundary between the Provinces of Ontario and Manitoba, as marked on the ground by the commissioners appointed in 1929, a distance of eighty-seven miles, fifty-five chains and thirty-two and eight-tenths links more or less to the most eastern point of Island Lake, the said point being fixed on the ground in the year 1930 and being marked by a concrete monument bearing the following inscriptions: on the southeast side, "No. 295 ONTARIO", and on the northwest side, "No. 295 MANITOBA" and situated in about North Latitude $53^{\circ} 44' 19'' \cdot 42$ and in about West Longitude $93^{\circ} 39' 14'' \cdot 91$; said boundary from the point marked by the monument bearing the inscription on the southeast side "No. 220 ONTARIO", and on the northwest side "No. 220 MANITOBA" to the most eastern point of Island Lake being marked at intervals of approximately one mile in length by special posts and mounds, each post having marked on it the number of the post and the year of survey, and said portion of the boundary being also marked at intervals of approximately six miles in length by concrete monuments bearing brass plates on which are the following inscriptions: on the southeast side, the number of the monument and the word "ONTARIO", and on the northwest side, the number of the monument and the word "MANITOBA"; thence in a right line on an initial azimuth of $38^{\circ} 40' 34''$ along the said boundary a distance of two hundred and eighty-two miles, thirty-three chains and fifty-seven and one-tenth links more or less to the Terminal Point marked by a concrete monument about four feet high above the ground and bearing the following inscriptions: on the southeast side, "No. 457A ONTARIO", and on the northwest side, "No. 457A MANITOBA", the said point being twenty-one and four-tenths feet due west astronomic from the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay, as the latter point was fixed by the Geodetic Survey of Canada in the year 1930; said boundary from the most eastern point of Island Lake to the said Terminal Point being marked at intervals of from one mile to three miles in length by special

posts of the same type as the special posts above described as marking the boundary from the point marked by the monument bearing the inscriptions, on the southeast side, "No. 220 ONTARIO", and on the northwest side, "No. 220 MANITOBA", to the most eastern point of Island Lake, and said portion of the boundary being also marked at intervals of from five miles to twenty-five miles in length by concrete monuments bearing brass plates on which are the following inscriptions: on the southeast side, the number of the monument and the word "ONTARIO", and on the northwest side, the number of the monument and the word "MANITOBA"; and as said boundary is shown on three plans of the Ontario-Manitoba Boundary, namely (1) from monument No. 220 on the twelfth Base Line to monument No. 295 at east end of Island Lake; (2) from monument No. 295 at east end of Island Lake to monument No. 356; and (3) from monument No. 356 to monument No. 457A at Hudson Bay; duly approved by the three Commissioners appointed in 1931 on the 26th day of January 1953, and of record in the Department of Mines and Technical Surveys at Ottawa.

THE ALBERTA-BRITISH COLUMBIA BOUNDARY ACT, 1955

3-4 ELIZABETH II, CHAPTER 24

An Act respecting the Boundary between the Provinces of Alberta and British Columbia

[Assented to 28th June, 1955.]

Preamble.

WHEREAS the Act of the Parliament of the United Kingdom known as *The British Columbia Act, 1866*, defines the eastern boundary of the Province of British Columbia as a line extending “from the Boundary of the *United States* Northwards by the *Rocky Mountains* and the one hundred and twentieth Meridian of West Longitude”, and the Act of the Parliament of Canada known as the *Alberta Act*, chapter 3 of the Statutes of 1905, defines the western boundary of the Province of Alberta as being the eastern boundary of the Province of British Columbia;

AND WHEREAS by the Act of the Parliament of Canada known as *The Alberta-British Columbia Boundary Act, 1932*, the boundary line between the Provinces of Alberta and British Columbia from the boundary of the United States to a point on the one hundred and twentieth meridian of west longitude in or about latitude north fifty-seven degrees, twenty-six minutes and forty and twenty-five one hundredths seconds was declared to be the boundary line surveyed, marked and laid down in the manner referred to in the preamble of that Act;

AND WHEREAS the northerly extension of the boundary line between the Provinces of Alberta and British Columbia from the point hereinbefore described to the sixtieth parallel of north latitude has been surveyed and marked on the ground by commissioners appointed for the purpose in accordance with the description of the eastern boundary of British Columbia defined in *The British Columbia Act, 1866*, which boundary line as so surveyed is shown upon twelve map-sheets signed by the commissioners and of record in the Department of Mines and Surveys at Ottawa;

AND WHEREAS the legislatures of the Provinces of Alberta and British Columbia having consented thereto, it is desirable that the boundary line so surveyed and marked on the ground be declared the boundary line between the Provinces of Alberta and British Columbia from the point hereinbefore described to the sixtieth parallel of north latitude;

Now THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act may be cited as the *Alberta-British Columbia Boundary Act, 1955*. Short title.

2. The boundary line surveyed and marked on the ground by commissioners appointed in 1950, 1952 and 1953 to delimit the boundary between the Provinces of Alberta and British Columbia and shown on twelve map-sheets entitled "Boundary between Alberta and British Columbia", numbered 55 to 66, signed by the commissioners and of record in the Department of Mines and Technical Surveys at Ottawa is hereby declared to be the boundary line between the Provinces of Alberta and British Columbia from a point on the one hundred and twentieth meridian of west longitude in or about latitude north fifty-seven degrees, twenty-six minutes and forty and twenty-five one hundredths seconds to the sixtieth degree of north latitude, and in so far as the boundary line so described increases, diminishes or otherwise alters the limits of those Provinces, their limits are increased, diminished or otherwise altered accordingly. Boundary declared.

3. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.⁽¹⁾ Coming into force.

(1) This Act came into force on the 1st April, 1956. *Canada Gazette*, Vol. 90, p. 1424.

NATURAL RESOURCES

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THE ALBERTA NATURAL RESOURCES ACT

20-21 GEORGE V, CHAPTER 3

An Act respecting the transfer of the Natural Resources of Alberta

[Assented to 30th May, 1930.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act may be cited as *The Alberta Natural Resources Act*. Short title.

2. The agreement set out in the schedule hereto is hereby approved, subject to the proviso that, in addition to the rights accruing hereunder to the province of Alberta, the said province shall be entitled to such further rights, if any, with respect to the subject matter of the said agreement as are required to be vested in the said province in order that it may enjoy rights equal to those which may be conferred upon or reserved to the province of Saskatchewan under any agreement upon a like subject matter hereafter approved and confirmed in the same manner as the said agreement. Agreement confirmed. Proviso.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this fourteenth day of December, 1929,

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable John Edward Brownlee, Premier of Alberta, and the Honourable George Hoadley, Minister of Agriculture and Health,

Of the second part.

WHEREAS by section twenty-one of *The Alberta Act*, being chapter three of four and five Edward the Seventh, it was provided that "All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the province under *The North-west Irrigation Act, 1898*, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said province with the substitution therein of the said province for the North-west Territories";

AND WHEREAS it is desirable that the Province should be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources as from its entrance into Confederation in 1905;

AND WHEREAS it has been agreed between Canada and the said Province that the provisions of *The Alberta Act* should be modified as herein set out;

NOW THEREFORE This Agreement Witnesseth:

TRANSFER OF PUBLIC LANDS GENERALLY

1. In order that the Province may be in the same position as the original Provinces of Confederation are in virtue of section one hundred and nine of the *British North America Act, 1867*, the interest of the Crown in all Crown lands, mines, minerals (precious and base) and royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals or royalties, shall, from and after the coming into force of this agreement and subject as therein otherwise provided, belong to the Province, subject to any trusts existing in respect thereof, and to any interest other than that of the Crown in the same, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof, subject, until the Legislature of the Province otherwise provides, to the provisions of any Act of the Parliament of Canada relating to such administration; any payment received by Canada in respect of any such lands, mines, minerals or royalties before the coming into force of this agreement shall continue to belong to Canada whether paid in advance or otherwise, it being the intention that, except as herein otherwise specially provided, Canada shall not be liable to account to the Province for any Payment made in respect of any of the said lands, mines, minerals or royalties before the coming into force of this agreement, and that the Province shall not be liable to account to Canada for any such payment made thereafter.

2. The Province will carry out in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals and every other arrangement whereby any person has become entitled to any interest therein as against the Crown, and further agrees not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto other than Canada or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who may be the parties thereto.

3. Any power or right, which, by any such contract, lease or other arrangement, or by any Act of the Parliament of Canada relating to any of the lands, mines, minerals or royalties hereby transferred or by any regulation made under any such Act, is reserved to the Governor in Council or to the Minister of the Interior or any other officer of the Government of Canada, may be exercised by such officer of the Government of the Province as may, be specified by the Legislature thereof from time to time and until otherwise directed, may be exercised by the Provincial Secretary of the Province.

4. The Province will perform every obligation of Canada arising by virtue of the provisions of any statute or order in council or regulation in respect of the public lands to be administered by it hereunder to any person entitled to a grant of lands by way of subsidy for the construction of railways or otherwise or to any railway company for grants of lands for right of way, road bed, stations, station grounds, work-shops, buildings, yards, ballast pits or other appurtenances.

5. The Province will further be bound by and will, with respect to any lands or interests in lands to which the Hudson's Bay Company may be entitled, carry out the terms and conditions of the Deed of Surrender from the said Company to the Crown as modified by the *Dominion Lands Act* and the Agreement dated the 23rd day of December, 1924, between His Majesty and the said Company, which said Agreement was approved by Order in Council dated the 19th day of December, 1924 (P.C. 2158), and in particular the Province will grant to the Company any lands in the Province which the Company may be entitled to select and may select from the lists of lands furnished to the Company by the Minister of the Interior under and pursuant to the said Agreement of the 23rd day of December, 1924, and will release and discharge the reservation in patents referred to in clause three of the said agreement, in case such release and discharge has not been made prior to the coming into force of this agreement. Nothing in this agreement, or in any agreement varying the same as hereinafter provided, shall in any way prejudice or diminish the rights of the Hudson's Bay Company or affect any right to or interest in land acquired or held by the said Company pursuant to the Deed of Surrender from it to the Crown, the *Dominion Lands Act* or the said Agreement of the 23rd day of December, 1924.

SCHOOL LANDS FUND AND SCHOOL LANDS

6. Upon the coming into force of this agreement, Canada will transfer to the Province the money or securities constituting that portion of the school lands fund, created under sections twenty-two and twenty-three of *The Act to amend and consolidate the several Acts respecting Public Lands of the Dominion*, being chapter thirty-one of forty-two Victoria, and subsequent statutes, which is derived from the disposition of any school lands within the Province or within that part of the Northwest Territories now included within the boundaries thereof.

7. The School Lands Fund to be transferred to the Province as aforesaid, and such of the school lands specified in section thirty-seven of the *Dominion Lands Act*, being chapter one hundred and thirteen of the Revised Statutes of Canada, 1927, as pass to the administration of the Province under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the *Dominion Lands Act*, for the support of schools organized and carried on therein in accordance with the law of the Province.

WATER

8. Canada agrees that the provision contained in section four of the *Dominion Water Power Act*, being chapter two hundred and ten of the Revised Statutes of Canada, 1927, that every undertaking under the said Act is declared to be a work for the general advantage of Canada, shall stand repealed as from the date of the coming into force of this agreement in so far as the same applies to undertakings within the Province; nothing in this paragraph shall be deemed to affect the legislative competence of the Parliament of Canada to make hereafter any declaration under the tenth head of section ninety-two of the *British North America Act, 1867*.

FISHERIES

9. Except as herein otherwise provided, all rights of fishery shall, after the coming into force of this agreement, belong to and be administered by the Province, and the Province shall have the right to dispose of all such rights of fishery by sale, licence or otherwise, subject to the exercise by the Parliament of Canada of its legislative jurisdiction over sea-coast and inland fisheries.

INDIAN RESERVES

10. All lands included in Indian reserves within the Province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the appropriate Minister of the Province, select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the Province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof.

11. The provisions of paragraphs one to six inclusive and of paragraph eight of the agreement made between the Government of the Dominion of Canada and the Government of the Province of Ontario on the 24th day of March, 1924, which said agreement was confirmed by Statute of Canada, fourteen and fifteen George the Fifth chapter forty-eight, shall (except so far as they relate to the *Bed of Navigable Waters Act*) apply to the lands included in such Indian reserves as may hereafter be set aside under the last preceding clause as if the said agreement had been made between the parties hereto, and the provisions of the said paragraphs shall likewise apply to the lands included in the reserves heretofore selected and surveyed, except that neither the said lands nor the proceeds of the disposition thereof shall in any circumstances become administrable by or be paid to the Province.

12. In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Province from time to time shall apply to the Indians within the boundaries thereof, provided however, that the said Indians shall have the right, which the Province hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access.

SOLDIER SETTLEMENT LANDS

13. All interests in Crown lands in the Province upon the security of which any advance has been made under the provisions of the *Soldier Settlement Act*, being chapter 188 of the Revised Statutes of Canada, 1927, and amending Acts, shall continue to be vested in and administered by the Government of Canada for the purposes of Canada.

NATIONAL PARKS

14. The parks mentioned in the schedule hereto shall continue as national parks and the lands included therein, as the same are described in the orders in council in the said schedule referred to (except such of the said lands as may be hereafter excluded therefrom), together with the mines and minerals (precious and base) in each of the said parks and the royalties incident thereto, shall continue to be vested in and administered by the Government of Canada as national parks, but in the event of the Parliament of Canada at any time declaring that the said lands or any part thereof are no longer required for park purposes, the lands, mines, minerals (precious and base) and the royalties incident thereto, specified in any such declaration, shall forthwith upon the making thereof belong to the Province, and the provisions of paragraph three of this agreement shall apply thereto as from the date of such declaration.

15. The Parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of each of the said parks notwithstanding that portions of such area may not form part of the park proper; the laws now in force within the said area shall continue in force only until changed by the Parliament of Canada or under its authority, provided, however, that all laws of the Province now or hereafter in force, which are not repugnant to any law or regulation made applicable within the said area by or under the authority of the Parliament of Canada, shall extend to and be enforceable within the same, and that all general taxing acts passed by the Province shall apply within the same unless expressly excluded from application therein by or under the authority of the Parliament of Canada.

16. The Government of Canada will introduce into the Parliament of Canada such legislation as may be necessary to exclude from the parks aforesaid certain areas forming part of certain of the said parks which have been delimited as including the lands now forming part thereof which are of substantial commercial value, the boundaries of the areas to be so excluded having been heretofore agreed upon by representatives of Canada and of the Province, and the Province agrees that upon the exclusion of the said areas as so agreed upon, it will not, by works outside the boundaries of any of the said parks, reduce the flow of water in any of the rivers or streams within the same to less than that which the Minister of the Interior may deem necessary adequately to preserve the scenic beauties of the said parks.

SEED GRAIN, ETC., LIENS

17. Every lien upon any interest in any unpatented land passing to the Province under this agreement, which is now held by Canada as security for an advance made by Canada for seed grain, fodder or other relief, shall continue to be vested in Canada, but the Province will, on behalf of Canada, collect the sums due in respect of such advances, except so far as the same are agreed to be uncollectible, and upon payment of any such advance, any document required to be executed to discharge the lien may be executed by such officer of the Province as may be authorized by any provincial law in that behalf; the Province will account for and pay to Canada all sums belonging to Canada collected hereunder; subject to such deduction to meet the expenses of collection as may be agreed upon between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be designated in that behalf under the laws thereof.

GENERAL RESERVATION TO CANADA

18. Except as herein otherwise expressly provided, nothing in this agreement shall be interpreted as applying so as to affect or transfer to the administration of the Province (a) any lands for which Crown grants have been made and registered under the *Lands Titles Act* of the Province and of which His Majesty the King in the right of His Dominion of Canada is, or is entitled to become the registered owner at the date upon which the agreement comes into force, or (b) any ungranted lands of the Crown upon which public money of Canada has been expended or which are, at the date upon which this agreement comes into force, in use or reserved by Canada for the purpose of the federal administration.

HISTORIC SITES, BIRD SANCTUARIES, ETC.

19. The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already

established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be specified under the laws thereof.

FINANCIAL TERMS

20. In lieu of the provision made by subsection one of section twenty of *The Alberta Act*, Canada will, from and after the date of the coming into force of this agreement, pay to the Province by half-yearly payments in advance, on the first days of January and July in each year, an annual sum based upon the population of the Province as from time to time ascertained by the quinquennial census thereof, as follows:

The sum payable until the population of the said Province reaches eight hundred thousand shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

21. If at the date of the coming into force of this agreement any payment has been made under subsection one of section twenty of *The Alberta Act* in respect of any half-year commencing before but terminating after the said date, a proportionate part of the payment so made shall be taken as having been made under the provisions hereof.

22. It is agreed that the Honourable W. F. A. Turgeon, a Judge of the Court of Appeal of Saskatchewan, Charles M. Bowman, of the Town of Waterloo, in the Province of Ontario, Esquire, Chairman of the Board of Directors of the Mutual Life Assurance Company of Canada, and Fred E. Osborne, Esquire, Mayor of the City of Calgary, or, if any of the foregoing cannot act, then such other person or persons as may be agreed upon, will be appointed commissioners under Part One of the *Inquiries Act* to enquire and report whether any, and, if any, what consideration, in addition to the sums provided in paragraph twenty hereof, should be paid to the Province in order that the Province may be placed in a position of equality with the other Provinces of Confederation with respect to the administration and control of its natural resources as from its entrance into Confederation in 1905, such commissioners to be empowered to decide what financial or other considerations are relevant to the enquiry, and the report to be submitted to the Parliament of Canada and to the Legislature of Alberta; and if by the said report, the payment of any additional consideration is recommended, then, upon agreement between the Governments of Canada and of the Province following the submission of such report, the said Governments will respectively introduce the legislation necessary to give effect to such agreement.

RECORDS

23. Canada will, after the coming into force of this agreement, deliver to the Province from time to time at the request of the Province the originals or complete copies of all records in any department of the Government of Canada relating exclusively with dealings with Crown lands, mines and minerals, and royalties derived therefrom within the Province, and will give to the Province access to all other records, documents or entries relating to any such dealings and permit to be copied by the Province any of the documents required by it for the effective administration of the Crown lands, mines, minerals and royalties.

AMENDMENT OF AGREEMENT

24. The foregoing provisions of this agreement may be varied by agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province.

WHEN AGREEMENT COMES INTO FORCE

25. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after the day upon which His Majesty gives His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same.

In Witness Whereof the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, have hereunto set their hands on behalf of the Dominion of Canada, and the Honourable John Edward Brownlee, Premier of Alberta, and the Honourable George Hoadley, Minister of Agriculture and Health thereof, have hereunto set their hands on behalf of the Province of Alberta.

Signed on behalf of the Province of
of Canada by the Honourable
Ernest Lapointe, Minister of Justice,
and the Honourable Charles Stewart,
Minister of the Interior, in the
presence of
O. M. BIGGAR.

ERNEST LAPOINTE.
CHAS. STEWART.

Signed on behalf of the Province of
Alberta by the Honourable John
Edward Brownlee, Premier of the
said Province, and the Honourable
George Hoadley, Minister of Agri-
culture and Health thereof, in the
presence of
J. F. LYMBURN.

J. E. BROWNLEE.
GEO. HOADLEY.

SCHEDULE

PARKS

Buffalo	P.C. 463, 7th March, 1908.
	P.C. 1306, 5th June, 1909.
	P.C. 646, 27th March, 1913.
	P.C. 2842, 26th November, 1920.
	P.C. 498, 31st March, 1924.
	P.C. 408, 19th March, 1925.
Elk Island	P.C. 646, 27th March, 1913.
	P.C. 377, 20th February, 1922.

PARKS—*Concluded*

Jasper	P.C. 1323, 14th September, 1907.
	P.C. 1068, 18th May, 1909.
	P.C. 1338, 8th June, 1911.
	P.C. 1165, 24th June, 1914.
	P.C. 637, 7th April, 1927.
	P.C. 158, 6th February, 1929.
	P.C. 159, 6th February, 1929.
Nemiskam	P.C. 1134, 31st May, 1922.
Rocky Mountains	P.C. 2197, 25th November, 1885.
	P.C. 1891, 23rd July, 1892.
	P.C. 1338, 8th June, 1911.
	P.C. 2594, 18th September, 1917.
	P.C. 158, 6th February, 1929.
Wawaskesy	P.C. 1134, 31st May, 1922.
Waterton Lakes	P.C. 1621, 30th May, 1895.
	P.C. 1338, 8th June, 1911.
	P.C. 1165, 24th June, 1914.
	P.C. 1298, 20th April, 1921.
	P.C. 2556, 20th July, 1921.
Wood Buffalo Reserve	P.C. 2498, 18th December, 1922.
	P.C. 408, 14th March, 1925.
	P.C. 634, 30th April, 1926.
	P.C. 1444, 24th September, 1927.

THE ALBERTA NATURAL RESOURCES ACT, No. 2

21-22 GEORGE V, CHAPTER 15

An Act to amend The Alberta Natural Resources Act

[Assented to 3rd August, 1931.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: 1930, c. 3.

1. This Act may be cited as *The Alberta Natural Resources Act*, No. 2, and *The Alberta Natural Resources Act*, chapter three of the Statutes of 1930 (first session), and this Act may be cited together as *The Alberta Natural Resources Acts*. Short title.

2. The agreement set out in the schedule hereto is hereby confirmed and shall take effect according to its terms. Agreement confirmed.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this 29th day of July, 1930

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable John Edward Brownlee, Premier of Alberta,

Of the second part.

WHEREAS by paragraph 24 of the agreement made between the parties hereto on the 14th day of December, 1929, it was agreed that the provisions of the said agreement might be varied by agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS it was further provided by certain clauses of the said agreement, more particularly paragraphs 1, 6, 8, 9, 18, 20, 21 and 23, that the relations of the parties thereto should be altered as in the said agreement specified from and after the date of the coming into force thereof, and the date upon which it was then contemplated that it should come into force as defined by paragraph 25, has now been ascertained as being the first day of August, 1930;

AND WHEREAS the Government of the Province has requested that the presently existing powers and rights of each of the parties should continue without alteration until the 1st day of October, 1930, and the parties hereto have agreed accordingly:

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

- 1. Notwithstanding anything in the said agreement contained, any expression therein contained which defines a date by reference to which the powers or rights of either of the parties are to be altered shall be read as referring to the 1st day of October, 1930, instead of the 1st day of August in that year.
- 2. The Government of Canada will recommend to Parliament and the Government of the Province of Alberta will recommend to the Legislature of the said Province such legislation as may be necessary to give effect to this agreement.

IN WITNESS WHEREOF the Honourable Charles Stewart, Minister of the Interior, has hereunto set his hand on behalf of the Dominion of Canada, and the Honourable John Edward Brownlee, Premier of Alberta, has hereunto set his hand on behalf of the said Province.

Signed on behalf of the Government of Canada by the Honourable Charles Stewart, Minister of the Interior, in the presence of	}	CHAS. STEWART.
W. W. CORY.		
Signed on behalf of the Province of Alberta by the Honourable John Edward Brownlee, Premier of the said Province in the presence of	}	J. E. BROWNLEE.
E. A. BROWN.		

THE NATURAL RESOURCES TRANSFER (AMENDMENT) ACT, 1941

4-5 GEORGE VI, CHAPTER 22

An Act to amend The Alberta Natural Resources Act

[Assented to 14th June, 1941.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1930, c. 3;
1931, c. 15;
1938, c. 36.

1. This Act may be cited as *The Natural Resources Transfer (Amendment) Act, 1941*.

Short title.

2. The Agreement set out in the Schedule to this Act is confirmed and shall have and take effect according to the respective terms thereof.

Agreement confirmed.

3. The Minister of Mines and Resources shall have authority to grant the licence referred to in the said agreement, notwithstanding the provisions of *The National Parks Act*, chapter thirty-three of the Statutes of 1930 (First Session).

Power to grant licence.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this twenty-eighth day of March, 1941 A.D.

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Thomas Alexander Crerar, Minister of Mines and Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable Duncan Bruce MacMillan Minister of Agriculture and in Charge of Water Resources, and the Honourable Nathan Eldon Tanner Minister of Lands and Mines,

Of the second part,

WHEREAS the Agreement entered into between the parties hereto on the 14th day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement) was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of

the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930" being chapter twenty-six of the Imperial Statutes, 20-21 George V;

AND WHEREAS by Section 24 of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS the said Natural Resources Transfer Agreement provides that the National Parks listed in the Schedule thereto were to continue to be vested in and administered as such by the Dominion of Canada;

AND WHEREAS the National Parks Act, being Chapter 33 of the Statutes of 1930 provided that the Parks were dedicated to the people of Canada for their benefit, education and enjoyment and that they should be maintained and made use of so as to leave them unimpaired for the enjoyment of future generations, and no exploitation of the lands therein for commercial purposes was contemplated;

AND WHEREAS it has been agreed that to meet requirements arising out of the war authority should be granted the Calgary Power Company Limited, to proceed with the works necessary to increase the storage of water in Lake Minnewanka in Banff National Park and the construction of an electric power plant at Anthracite also in the said Park, with necessary transmission lines for conveying the electric power so developed for use in the Park and in areas outside the Park;

AND WHEREAS the Governor General in Council by order P.C. No. 7382 of the 13th December, 1940, has signified his approval of the development:

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. Notwithstanding anything in the said Natural Resources Transfer Agreement contained, the Minister of Mines and Resources of Canada may grant the Calgary Power Company, Limited, the rights as hereinafter enumerated, subject to such terms and conditions as the Governor General in Council may approve and to any rights existing or which may be created under the Irrigation Act, or Part I of the Alberta Water Resources Act;

- (a) The right to raise Lake Minnewanka to a full supply level of elevation 4,840 feet above mean sea level (Geodetic datum) or such lesser elevation as may subsequently be determined by the Minister of Mines and Resources as being the economic maximum with the right to store water up to said elevation and use 200,000 acre-feet of the storage so created or such lesser amount as may subsequently be determined by the said Minister as being the economic maximum by the construction of a dam across the Cascade River Valley at or near the outlet of the said lake;
- (b) The right to divert, take and use the water so stored for the power purposes by diverting the same through a canal and conduit down a lateral valley to a power station to be constructed on the Cascade River flat at or near Anthracite, and at that point to return the water by suitable works to the Cascade River;
- (c) The right to convey the waters of the Ghost River into Lake Minnewanka through a canal extending from the Park boundary to Lake Minnewanka;

- (d) The right to construct transmission lines with the necessary rights-of-way connecting the proposed power station with the existing transmission system of the Company outside the Park and the system now supplying Banff;
- (e) The right to sell electric power to residents in Banff townsite and vicinity;
- (f) And generally the right to perform such acts in connection with said storage and power development scheme as may be approved from time to time by the Minister of Mines and Resources.

2. The area involved shall continue to be part of the Banff National Park and the Licence for the storage of water and power development shall contain such terms and conditions as may be considered necessary to safeguard, so far as possible, the purpose for which the Park was established.

3. The Licence covering the right to store water and develop power shall be in accordance and subject to the Dominion Water Power Act and amendments thereto and shall vest in the Licensee all necessary rights and powers provided in said Act to be vested in any person authorized to carry out an undertaking and shall contain provisions to safeguard the interests of present and future holders of water rights below the works.

4. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after its approved as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In Witness Whereof the Honourable Thomas Alexander Crerar, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada and the Honourable Duncan Bruce MacMillan, Minister of Agriculture and In Charge of Water Resources, and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines, have hereunto set their hands on behalf of the Province of Alberta.

Signed on behalf of the Government of
Canada by the Honourable Thomas
Alexander Crerar, Minister of Mines
and Resources,

(Sgd.) T. A. CRERAR.

In the presence of:
(Sgd.) C. W. JACKSON.

Signed on behalf of the Government of
Alberta by the Honourable Duncan
Bruce MacMillan, Minister of Agri-
culture and in charge of Water Re-
sources, and the Honourable Nathan
Eldon Tanner, Minister of Lands and
Mines,

(Sgd.) D. B. MACMILLAN.

In the presence of:

(Sgd.) KATHLEEN ROSS,
Witness for Minister of Agriculture.

(Sgd.) N. E. TANNER.

(Sgd.) MARY C. LIVINGSTONE,
Witness for Minister of Lands and
Mines.

THE ALBERTA NATURAL RESOURCES TRANSFER (AMENDMENT) ACT, 1945⁽¹⁾

9-10 GEORGE VI, CHAPTER 10

An Act to amend The Alberta Natural Resources Act

[Assented to 18th December, 1945.]

1930, c. 3;
1931, c. 15;
1938, c. 36.

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Alberta Natural Resources Transfer (Amendment) Act, 1945*.

Agreements
confirmed.

2. The Agreements set out in Schedules One and Two to this Act are confirmed and shall have the force of law and take effect according to the respective terms thereof.

(1) The purpose of this Act was to confirm the Agreements between the Government of Canada and the Government of Alberta set out in Schedules One and Two.

SCHEDULE ONE

The Agreement in Schedule One provides for the settlement of differences between the Dominion and the Province as to the effect of the Natural Resources Transfer Agreement on the ownership and control of three developed power sites on the Bow River lying within or adjacent to the Stony Indian Reserve. The three sites known as the Horseshoe, Kananaskis and Ghost sites were developed by the Calgary Power Company Limited and are being operated under authorizations issued by the Dominion Government in the years 1909, 1912 and 1929 respectively, when they were under exclusive Dominion jurisdiction prior to the transfer of natural resources in 1930.

The Agreement in Schedule One provides that the land and water power at the two sites in which the Indian interest predominates, namely Horseshoe and Kananaskis, are to remain under Dominion jurisdiction while the Ghost site where the Provincial interest is substantial shall be deemed to have passed to the Province at the time of the transfer of the natural resources. The Minister of Mines and Resources issues all three licences to replace the existing authorizations and will continue to administer the Horseshoe and Kananaskis developments, while the Province will be responsible for administration of the Ghost development as soon as the final licence is issued.

SCHEDULE TWO

Under the Alberta Natural Resources Transfer Act, 1930, certain public shooting grounds and bird sanctuaries were preserved. Many of them were dried up or were otherwise unsuitable for the purpose for which they were originally set aside. The agreement in Schedule Two provided that these reservations would be cancelled by agreement between the two responsible Ministers concerned with the approval of the Governor in Council and the Lieutenant-Governor in Council.

Section three of the Bill authorized the Minister of Mines and Resources, notwithstanding the provisions of any other law or Act, to issue the final licences to the Calgary Power Company Limited for the three developed power sites on the Bow River referred to in the Agreement set out in Schedule One to which the Company are entitled under the terms of the original authorizations.

3. Notwithstanding the provisions of any other law or Act of the Parliament of Canada the Minister of Mines and Resources shall have authority to issue the final licences referred to in the Agreement set out in Schedule One to this Act and in the interim water power agreements and licences now in force.

SCHEDULE I

MEMORANDUM OF AGREEMENT

Made this 25th day of September, A.D. 1945.

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable James Allison Glen, Minister of Mines and Resources

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable Duncan Bruce MacMillan, Minister of Agriculture and in charge of Water Resources

Of the second part.

WHEREAS in giving effect to the provisions of the Agreement entered into between the Government of the Dominion of Canada and the Government of the Province of Alberta on the 14th day of December, A.D. 1929, and the Supplementary Agreement entered into between them on the 5th day of March, A.D. 1938 (together hereinafter referred to as the Natural Resources Transfer Agreement), differences have arisen between the parties hereto in connection with certain water powers on the Bow River lying within or adjacent to the Stony Indian Reserve developed by the Calgary Power Company Limited and its predecessor in interest prior to the 1st day of October, A.D. 1930;

AND WHEREAS differences have also arisen between the parties hereto as to whether the Dominion or the Province is entitled to the benefits and subject to the obligations of the Licensor under the Licences and Water Power Agreements heretofore granted in respect of the said water powers;

AND WHEREAS it is desirable that these differences should be resolved so as to carry out the true intent and purpose of the Natural Resources Transfer Agreement;

AND WHEREAS by Paragraph 24 of the Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. With respect to the water power at Horseshoe Falls,—

(a) The interest of the Crown in the bed and banks of the Bow River and all waters and water power rights appurtenant thereto within the limits of the tract of land described in Schedule "A" hereto shall continue as and from October 1, 1930, to be vested in the Crown in the right of Canada. All rights and obligations of the

Crown under the Letters Patent dated April 23, 1909, granted to Calgary Power and Transmission Company, Limited, and under the Water Power Agreement dated October 14, 1909, between the Minister of the Interior and Calgary Power and Transmission Company, Limited, and the Regulations applicable thereto shall continue to be exercisable by and binding upon the Crown in the right of Canada. The Dominion Minister shall issue the Horseshoe Falls Licence for the second term of twenty-one years from October 14, 1935, provided for in the said Water Power Agreement and shall issue any renewals of the licence subject to and as provided in the said Water Power Agreement and Regulations but in such renewals of the licence no change shall be made in the rental or any other condition of the licence except by agreement between the Dominion and Provincial Ministers. If the said Ministers fail to agree on a readjusted rental for a renewal period, the same shall be fixed by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the Lieutenant Governor in Council and the third by the two so appointed, or in case they fail to agree by the Chief Justice of Canada, and except as herein provided, the provisions of the Arbitration Act of the province of Alberta shall so far as applicable govern such arbitration but without prejudice to the Licensee's right to arbitration as in the said Regulations provided. Any voluntary transfer of the Horseshoe Falls Licence to the Province or to any authority of the Province whereby the Assignee or Transferee has undertaken to assume all the obligations of the Licensee thereunder and any transfer, charge, or encumbrance thereof by way of mortgage or trust deed which is approved by the Board of Public Utility Commissioners or by any other authority, board or commission designated by the Provincial Minister shall be effective subject to the Dominion Minister being notified ninety days prior to the transfer.

- (b) The annual sum of \$1,500 payable under the said Letters patent dated April 23rd, 1909, together with all sums of money payable under the terms of any water power agreement or licence covering the said water power, shall continue to be payable to Canada for the benefit of the Indians of the Stony Band.

2. With respect to the water power at Kananaskis Falls,—

- (a) The interest of the Crown in the bed and banks of the Bow and Kananaskis rivers and in all waters and water power rights appurtenant thereto within the limits described in Schedule "B" hereto, shall continue as and from October 1, 1930, to be vested in the Crown in the right of Canada. All rights and obligations of the Crown under the Water Power Agreement dated October 14, 1912, between the Minister of the Interior and Calgary Power Company, Limited (excepting those contained in the provisions of Paragraph 27 thereof relative to the leasing of former Park lands which have passed to the Province) and the Regulations applicable thereto shall continue to be exercisable by and binding upon the Crown in the right of Canada. The Dominion Minister shall issue the Kananaskis Falls licence for the second term of twenty-one years from October 14, 1936, provided for in the said Water Power Agreement and shall issue any renewals of the licence subject to and as provided in the said Water Power Agreement and Regulations but in such renewals of the licence no change shall be made in the rental or any other condition of the licence except by agreement between the Dominion and Provincial Ministers. If the said Ministers fail to agree on a readjusted rental for a renewal period, the same shall be fixed by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the

Lieutenant Governor in Council and the third by the two so appointed, or in case they fail to agree by the Chief Justice of Canada, and except as herein provided, the provisions of the Arbitration Act of the Province of Alberta shall so far as applicable govern such arbitration but without prejudice to the Licensee's right to arbitration as in the said Regulations provided. Any voluntary transfer of the Kananaskis Falls Licence to the Province or to any authority of the Province whereby the Assignee or Transferee has undertaken to assume all the obligations of the Licensee thereunder and any transfer, charge or encumbrance thereof by way of mortgage or trust deed which is approved by the Board of Public Utility Commissioners or by any other authority, board or commission designated by the Provincial Minister shall be effective subject to the Dominion Minister being notified ninety days prior to the transfer.

- (b) As the administrative authority since October 1, 1930, for the former Park lands lying outside the Stony Indian Reserve, the Province will carry out the provisions of Paragraph 27 of the said Water Power Agreement dated October 14, 1912. In the event of Canada acquiring the Kananaskis Falls Power development pursuant to the terms of the said Licence and Regulations, the Province will renew the lease referred to in the said Paragraph 27 to Canada or its nominee on terms to be agreed upon between Canada and the Province, or in default of agreement to be settled by a judge of the Supreme Court of Alberta nominated by the Chief Justice of Alberta.
- (c) All sums payable under the terms of the Agreement dated May 20, 1914, between the Calgary Power Company, Limited, and certain Indians of the Stony Band for land and water power rights at Kananaskis Falls, shall continue to be payable to Canada for the benefit of the Indians.
- (d) As and from October 1, 1930, all sums which have been paid or are payable under the terms of the said Water Power Agreement of October 14, 1912, other than Paragraph 27 thereof, shall be divided between Canada for Indian Interests and the Province, and shall be paid to Canada and the Province respectively in proportion to the developed head within and without the Stony Indian Reserve namely, in the proportion of 45/72 to Canada and 27/72 to the Province.
- (e) All sums which have been paid or are payable to Canada by the Licensee under the terms of any Water Power Licence granted by Canada pursuant to the said Agreement of October 14, 1912, including as such the annual sum of \$1,500 payable to the Superintendent General of Indian Affairs under the said Agreement of May 20th, 1914, or any Patent or other grant of land confirming or replacing the said Agreement, shall be divided between Canada for Indian Interests and the Province, and shall be paid to Canada and the Province respectively in proportion to the developed head within and without the Stony Indian Reserve namely, in the proportion of 45/72 to Canada and 27/72 to the Province provided that Canada's share of such division shall never be less than \$1,500 per annum.
- (f) All sums which become payable under the terms of the lease to be granted by the Province for the former Park land lying outside the said Reserve in pursuance of the terms of the said Agreement of October 14, 1912, shall belong to and be payable to the Province.
- (g) In the event of Canada acquiring the Kananaskis Falls Power Development pursuant to the terms of the said Licence and Regulations Canada shall thereafter during the operation of the plant

at the Kananaskis Falls site pay to the Province an annual sum in respect of water rentals equal to the amount payable to the Province for water rentals in the year preceding such acquisition.

3. With respect to the water power at the Ghost site,—

- (a) The Dominion Minister shall issue the Final Licence provided for in the Interim Licence granted by the Minister of the Interior of Canada on the 17th day of January, 1929, subject to and in accordance with the Water Power Regulations established under The Dominion Water Power Act by Order in Council dated October 31, 1921, published in the *Canada Gazette* of November 12, 1921, and as amended as to Sections 48 (13) and 83a by Order in Council of September 10, 1928, published in the *Canada Gazette* of September 15, 1928. The said Final Licence shall provide that as from the 1st day of January, 1930, the date upon which the Licensee completed the initial development and became entitled to a Final Licence, all transmission lines and distribution systems then or thereafter forming part of the Licensee's interconnected electrical power system within the limits of the Province of Alberta shall form part of the undertaking established under the said Final Licence in accordance with Section 44 (e) of the said Regulations and the fixation of cost of the Ghost Power Development shall include all costs of such undertaking to and including 31st December, 1944. The said Final Licence shall also provide that for the purposes of Section 49 of the said Regulations the said undertaking shall also include as from 1st January, 1930, the Horseshoe Falls Power Development, the Kananaskis Falls Power Development and all other power and storage developments of the Licensee within the limits of the Province of Alberta constituting for the time being with the Ghost undertaking one interconnected power system of the Licensee. The Dominion Minister, or his Deputy, may do and perform all such acts and things for the issuing of the said Final Licence as are provided herein and in the said Regulations. The Dominion Minister shall also fix the "actual cost" as defined in and in the manner provided in the Water Power Regulations established under the Dominion Water Power Act by Order in Council dated October 31, 1921, of the Horseshoe Falls and Kananaskis Falls Power Developments as at 31st December, 1944.
- (b) The interest of the Crown in the bed and banks of the Bow River at the Ghost site from the eastern boundary of the Stony Indian Reserve to the upstream limit of floodage as shown upon Record Plan numbered 2884 on file in the Office of the Controller of Water Power at Ottawa, and in all waters and water power rights appurtenant thereto shall be deemed to belong and to have belonged to the Province as and from October 1, 1930, subject to the Final Licence for the use of all the waters of the Bow River at the said site to be issued as provided in Paragraph 3 (a) hereof and the provisions of Paragraphs 1, 2 and 3 of the Natural Resources Transfer Agreement of December 14, 1929, shall apply to the said Final Licence when issued with the same effect as if the said Licence has been issued prior to October 1 1930, and as if all the rights and obligations of the Crown thereunder and under the Regulations had been transferred to and assumed by the Province by the Natural Resources Transfer Agreement. After such transfer and assumption as aforesaid in the application of the said Regulations amended as aforesaid to the said Licence the "Provincial Minister" shall be substituted for the "Minister of the Interior", the "Department"

shall be substituted for "the Department of the Interior" and "the Supreme Court of Alberta" shall be substituted for "the Exchequer Court of Canada", and "the Crown" shall mean the Crown in the right of the Province.

- (c) As and from October 1, 1930, all sums which have been paid or are payable under the terms of the said Interim Licence of January 17, 1929, and the Final Licence referred to in paragraph 3 (a) above for water power rights, since that date shall be divided between Canada and the Province in the proportions of one-half to Canada for the benefit of the said Indians of the Stony Band and one-half to the Province, and shall be paid to Canada and the Province respectively in the proportions stated.
- (d) In the event of the said Final Licence, referred to in paragraph 3 (a) above, expiring or being terminated, the Province shall thereafter during the operation of the generating plant at the Ghost site, pay to Canada for the benefit of the Stony Band of Indians an annual sum equal to one-half of the average annual water power rental payable in the last five years preceding such expiry or termination or such lesser sum as the Superintendent General of Indian Affairs may fix as just and reasonable in the circumstances, provided that if the said plant be closed down the annual sum payable by the Province to Canada for the benefit of the Stony Band of Indians shall so long as the dam contributes to storage or river control be \$3,500.
- (e) As and from October 1st, 1930, all sums payable for the use or occupation of land under the terms of the Interim Licence of January 17th 1929, and the Final Licence referred to in paragraph 3 (a) above shall belong to and be payable to the Province.

4. The licences to be issued as herein provided shall be in the form and terms of the drafts thereof initialled for identification by the Dominion Minister and the Provincial Minister, respectively, and shall be valid and effective according to such terms, but nothing herein contained shall be deemed to be a waiver of any other rights, interests or obligations of either Canada or the Province arising out of the Natural Resources Transfer Agreement or otherwise and in particular neither Canada nor the Province waives any claim it may have or assert or admits any claim which the other party may have or assert to the title and control of the bed and banks of the Bow River or in the waters and water power rights appertaining thereto except as herein provided.

5. As used herein the expression "Dominion Minister" means The Minister of Mines and Resources of Canada and his successor in office for the time being, and the expression "Provincial Minister" means the Minister for the time being charged with the administration of the Water Resources Act of the Province of Alberta.

6. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

IN WITNESS WHEREOF the Honourable James Allison Glen, Minister of Mines and Resources, has hereunto set his hand on behalf of the Government of the Dominion of Canada; and the Honourable Duncan Bruce MacMillan, Minister of Agriculture and in charge of Water Resources, has hereunto set his hand on behalf of the Government of the Province of Alberta.

Signed on behalf of the Government of
Canada by the Honourable James
Allison Glen, Minister of Mines and
Resources, in the presence of: } "J. ALLISON GLEN"
"C. W. JACKSON".

Signed on behalf of the Government of
Alberta by the Honourable Duncan
Bruce MacMillan, Minister of Agri-
culture and in charge of Water Re-
sources, in the presence of: } "D. B. MACMILLAN"
"KATHLEEN L. CONNORS"

SCHEDULE "A"

All that tract of land situated partly on the right bank and partly on the left bank of the Bow River in the Stony Indian Reserve, described as follows:—Commencing at a point in the northerly side of the Right of Way of the Canadian Pacific Railway distant twenty-four chains easterly from the fifty-first mile post of the said Railway:—thence North 65° 37' West twenty-two chains:—thence North 39° 37' West forty-two chains:—thence North 50° 23' East, one hundred and forty-six chains and thirty links:—thence South 49° 37' East, thirty-six chains and thirty-six links:—thence South 39° 37' East thirty chains and sixty-eight links to the northerly limit of the Right of Way of the Canadian Pacific Railway:—thence westerly along the said northerly limit to the point of commencement, all as shown on a plan of record in the Department of Indian Affairs, dated 5th April, 1909, as 821A, together with the bed and banks of the Bow River from the easterly boundary of the tract of land above described up to the tail-water level of the Kananaskis Power plant.

SCHEDULE "B"

All those portions of the beds and banks of the Bow and Kananaskis Rivers from the tail-water level of the Kananaskis Plant to the southwestern boundary of the Stony Indian Reserve, and from thence to the limits of floodage of the Kananaskis Falls Power Development as shown on Record Plan numbered 2894 on file in the office of the Controller of Water Power at Ottawa, and to such further limits on the said rivers to which the floodage may be from time to time extended with the consent of the Minister for the time being charged with the administration of the Water Resources Act of the Province of Alberta.

SCHEDULE II

MEMORANDUM OF AGREEMENT

Made this 26th day of September, 1945.

BETWEEN:

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein
by the Honourable James Allison Glen, Minister of Mines and
Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein
by the Honourable Nathan Eldon Tanner, Minister of Lands
and Mines,

Of the second part.

WHEREAS the agreement entered into between the parties hereto on the fourteenth day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement), was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "*The British North America Act 1930*", being chapter twenty-six of the Imperial Statutes, 20-21 George V;

AND WHEREAS, by paragraph 24 of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS, the said Natural Resources Transfer Agreement came into force, in virtue of a further Agreement between the parties thereto, dated the twenty-ninth day of July, A.D. 1930, which was duly confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province, on the first day of October, A.D. 1930;

AND WHEREAS, it was provided by paragraph 19 of the said Agreement as follows: "The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be specified under the laws thereof."

AND WHEREAS, it has been agreed between Canada and the Province of Alberta that certain public shooting grounds and bird sanctuaries which were established at the time of the making of the said Natural Resources Transfer Agreement and since maintained by the Province should be discontinued and that authority should also be given under certain conditions to discontinue any public shooting grounds and bird sanctuaries established pursuant to the said Agreement;

NOW THEREFORE, THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. The said Natural Resources Transfer Agreement is hereby amended by adding after the above mentioned paragraph 19 the following new paragraph:

"19A. The Province may discontinue any bird sanctuary or public shooting ground which was transferred to the Province by virtue of this Agreement or which has since been established by the Province or which may hereafter be established by the Province pursuant to this Agreement in any case in which an agreement is entered into between the Minister of Mines and Resources of Canada and the Minister of Lands and Mines of Alberta approved by the Governor in Council and the Lieutenant Governor in Council respectively, providing for the discontinuance of any such bird sanctuary or public shooting ground."

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In witness whereof, the Honourable James Allison Glen, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines, has hereunto set his hand on behalf of the Province of Alberta.

Signed on behalf of the Government of
Canada by the Honourable James
Allison Glen, Minister of Mines and
Resources, in the presence of "C. W.
JACKSON".

"J. ALLISON GLEN."

Signed on behalf of the Government of
Alberta by the Honourable Nathan
Eldon Tanner, Minister of Lands and
Mines, in the presence of "GRACE
A. M. MATHESON".

"N. E. TANNER."

THE ALBERTA NATURAL RESOURCES TRANSFER (AMENDMENT) ACT, 1951

15 GEORGE VI, CHAPTER 37

An Act to vary the Alberta Natural Resources Agreement

[Assented to 30th June, 1951.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act may be cited as *The Alberta Natural Resources Transfer (Amendment) Act, 1951*. Short title.

2. The Agreement set out in the Schedule to this Act is hereby confirmed and shall take effect according to its terms. Agreement confirmed.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this 31st day of March, 1951.

BETWEEN

THE GOVERNMENT OF CANADA, represented herein by the Honourable Douglas Charles Abbott, Minister of Finance,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable Ernest Charles Manning, Premier of Alberta and Provincial Treasurer,

Of the second part.

WHEREAS the Agreement entered into between the parties hereto on the 14th day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement), was duly approved by the Parliament of Canada and the Legislature of the Province and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930" being chapter twenty-six of the Imperial Statutes, 20-21 George V;

AND WHEREAS by paragraph twenty-four of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS paragraphs six and seven of the Natural Resources Transfer Agreement provide as follows:

"6. Upon the coming into force of this Agreement, Canada will transfer to the Province the money or securities constituting that portion of the School Lands Fund, created under sections twenty-two

and twenty-three of the Act to amend and consolidate the several Acts respecting Public Lands of the Dominion, being chapter thirty-one of forty-two Victoria, and subsequent statutes, which is derived from the disposition of any school lands within the Province or within that part of the Northwest Territories now included within the boundaries thereof."

"7. The School Lands Fund to be transferred to the Province as aforesaid, and such of the school lands specified in section thirty-seven of the Dominion Lands Act, being chapter one hundred and thirteen of the Revised Statutes of Canada, 1927, as pass to the administration of the Province under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the Dominion Lands Act, for the support of schools organized and carried on therein in accordance with the law of the Province."

AND WHEREAS the effect of these provisions is that money obtained from the sale of the school lands specified therein and the said School Lands Fund may be invested only in securities of Canada;

AND WHEREAS it has been agreed that provision should be made for the investment of such money in other securities as hereinafter provided:

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. Paragraph seven of the Natural Resources Transfer Agreement is amended by adding thereto the following provision:

"The Province will, notwithstanding anything in this Agreement, invest money to which this paragraph applies in securities of Canada, or of a Province, or of a municipal corporation, school district or school division in the Province of Alberta, or in securities guaranteed by Canada or a Province, to form a school fund, and will apply the interest arising therefrom, after deducting the cost of management, for the support of schools organized and carried on in accordance with the law of the Province."

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

IN WITNESS WHEREOF, the Honourable Douglas Charles Abbott, Minister of Finance, has hereunto set his hand on behalf of Canada; and the Honourable Ernest Charles Manning, Premier of Alberta and Provincial Treasurer, has hereunto set his hand on behalf of the Province of Alberta.

Signed on behalf of the Government of Canada by the Honourable Douglas Charles Abbott, Minister of Finance, in the presence of (Sgd) W. C. CLARK.	}	(Sgd) D. C. ABBOTT.
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Signed on behalf of the Government of Alberta by the Honourable Ernest Charles Manning, Premier of Alberta and Provincial Treasurer, in the pres- ence of (Sgd) D. HOPE.	}	(Sgd) ERNEST MANNING.
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THE RAILWAY BELT AND PEACE RIVER BLOCK ACT

20-21 GEORGE V, CHAPTER 37

**An Act respecting the transfer of the Railway Belt and the
Peace River Block⁽¹⁾**

[Assented to 30th May, 1930.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act may be cited as *The Railway Belt and Peace River Block Act*. Short title.

2. The agreement set out in the schedule hereto is hereby approved. Agreement confirmed.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this twentieth day of February, 1930

BETWEEN:

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF BRITISH COLUMBIA, represented herein by the Honourable Simon Fraser Tolmie, Premier and Minister of Railways of the said Province, and the Honourable Frederick Parker Burden, Minister of Lands thereof,

Of the second part.

WHEREAS pursuant to paragraph eleven of the Terms of Union between the Dominion of Canada and the then Colony of British Columbia and to certain statutes of the Legislature of the Province of British Columbia, being chapter eleven of the statutes of the year eighteen hundred

(1) The Agreement set out in the Schedule to the present Act was confirmed by the B.N.A. Act, 1930 of the United Kingdom, which is found earlier in this volume. For a more complete discussion of the Act see Debates of the House of Commons, the 21st March, 1930.

and eighty, chapter fourteen of the statutes of the year eighteen hundred and eighty-three, and chapter fourteen of the statutes of the year eighteen hundred and eighty-four, there were granted by the Province to Canada certain Crown lands in the Province by way of consideration for Canada's undertaking to secure the construction of a railway to connect the seaboard of the Province with the railway system of Canada and of Canada's paying to the Province from the date of the Union an annual sum of one hundred thousand dollars, the said Crown lands being defined in the statutes aforesaid and having become known as the Railway Belt and the Peace River Block;

AND WHEREAS a railway such as is described in paragraph eleven of the Terms of Union has been duly constructed and is in operation, and the Province has requested the re-transfer to it of such of the lands in the said Railway Belt and Peace River Block as remain unalienated;

And whereas the Honourable W. M. Martin, one of the Judges of the Court of Appeal for the Province of Saskatchewan, having by Order in Council dated the eighth day of March, 1927 (P.C. 422) been appointed a commissioner under Part One of the *Inquiries Act* to receive and inquire into the arguments of the Government of the Province of British Columbia in support of its claim for the reconveyance of the said lands to the Province, submitted his report as such commissioner in which he expressed the opinion that the Province could not by reason of its own agreements and statutes advance any legal claim, but that its request should be considered from the standpoint of fairness and justice rather than from the strictly legal and contractual position, and in which he recommended that the said lands should be restored;

AND WHEREAS Canada has agreed accordingly to re-transfer the said lands to the Province on the terms hereinafter set out:

Now This Agreement Witnesseth that the parties have agreed as follows:

TRANSFER OF RAILWAY BELT AND PEACE RIVER BLOCK GENERALLY

1. Subject as hereinafter provided, all and every interest of Canada in the lands granted by the Province to Canada as hereinbefore recited are hereby re-transferred by Canada to the Province and shall, from and after the date of the coming into force of this agreement, be subject to the laws of the Province then in force relating to the administration of Crown lands therein.

2. Any payment received by Canada before the coming into force of this agreement in respect of any interest in the said lands shall continue to belong to Canada, whether paid in advance or otherwise, without any obligation on the part of Canada to account to the Province therefor, and the Province shall be entitled to receive and retain any such payment made after the coming into force of this agreement without accounting to Canada therefor.

3. The Province will carry out in accordance with the terms thereof every contract to purchase or lease any interest in any of the lands hereby transferred and every other arrangement whereby any person has become entitled to any interest therein as against Canada, and will perform every obligation of Canada arising by virtue of the provisions of any statute or Order in Council or regulation affecting the said lands hereby transferred to any person entitled to a grant of lands by way of subsidy for the construction of railways or otherwise, or to any railway company for grants of land for right of way, roadbed, stations, station grounds, workshops, buildings, yards, ballast pits or other appurtenances.

4. Any power or right which, by any agreement or other arrangement relating to any interest in the lands hereby transferred or by any Act of the Parliament of Canada relating to the said lands, or by any regulation made under any such Act, is reserved to the Governor in Council, or to the Minister of the Interior or any other officer of the Government of Canada, may be exercised by the Lieutenant-Governor of the Province in council or by such officer of the Government of the Province as is authorized to exercise similar powers or rights under the laws of the Province relating to the administration of Crown lands therein.

5. The application to the lands hereby transferred of the laws of the Province relating to the administration of Crown lands therein, as hereinbefore provided, shall not be deemed to affect the terms of any alienation by Canada of any interest in the said lands or of any agreement made by Canada for such alienation, or the rights to which any person may have become entitled as aforesaid.

6. Nothing in this agreement shall be interpreted as affecting or transferring to the Province any ordnance or admiralty lands included in the Railway Belt which have been or are hereafter transferred or surrendered to Canada by the Government of the United Kingdom of Great Britain and Ireland or of the United Kingdom of Great Britain and Northern Ireland.

7. All ordnance and admiralty lands which were set aside as such before the sixteenth day of May, eighteen hundred and seventy-one, and which have been or are hereafter transferred or surrendered to Canada as aforesaid, whether the same lie within or without the said Railway Belt, shall continue to be vested in and administered by the Government of Canada for the purposes of Canada, provided, however, that Canada shall recognize and confirm any alienation of any part of the said lands heretofore made by the Province and shall perform and execute every obligation of the Province which has arisen with respect to any part of the said lands by virtue of any agreement made by the Province in respect thereof, or by virtue of any Act of the Legislature of the Province or of any Order in Council or regulation made under the authority of any such Act.

8. The location and boundaries of the several parcels of ordnance and admiralty lands aforesaid shall be referred for determination to two persons, one of whom shall be appointed by the Governor General in Council, and one by the Lieutenant-Governor in Council, and in the event of a disagreement between the said two persons, an umpire shall be selected by agreement between the Minister of Justice for Canada and the Attorney-General of British Columbia.

PUBLIC WORKS

9. Notwithstanding anything in the foregoing paragraphs of this agreement, Canada shall retain in the wharves and wharf sites situate within the Railway Belt and specified in Schedule One to this agreement, together with the lands adjacent thereto which are required for the convenient use of any such wharf or wharf site; the boundaries of the parcels of land reserved to Canada under this clause shall be ascertained and defined by agreement between Canada and the Province as soon as convenient.

10. Forthwith upon any of the said parcels of land ceasing to be required for use as a wharf site, such parcel shall revert to and become the property of the Province.

HARBOURS

11. Nothing in the foregoing paragraphs of this agreement shall extend to the foreshores or beds of harbours heretofore established within the Railway Belt, but the said foreshores and beds shall continue to be vested in Canada, and there shall in addition be reserved and retained by Canada the foreshores and beds of the Fraser River and the Pitt River lying above the eastern boundaries of New Westminster Harbour and below lines to be ascertained and defined by agreement at the junction of Kanaka Creek with the Fraser River and at the point of the exit of the Pitt River from Pitt Lake.

12. The Province will grant and assure to the Canadian Pacific Railway Company the lands occupied or required by it for the purpose of the construction and operation of its railway in that part of the Railway Belt hereinbefore referred to which is known as the Sumas Dyking Lands, in such manner that the said Company may obtain a registered title to the said lands in fee simple free from encumbrance.

INDIAN RESERVES

13. Nothing in this agreement shall extend to the lands included within Indian reserves in the Railway Belt and the Peace River Block, but the said reserves shall continue to be vested in Canada in trust for the Indians on the terms and conditions set out in a certain order of the Governor General of Canada in Council approved on the 3rd day of February, 1930 (P.C. 208).

PARKS

14. Nothing in the foregoing clauses of this agreement shall be construed as re-transferring to the Province any interest of Canada in any of the lands forming part of the Railway Belt which are included within any of the national parks described in Schedule Two of this agreement.

15. In order that the said national parks may be administered by Canada as such, all the rights of the Crown in all the lands, mines and minerals (precious and base) and the royalties incident thereto within any of the said parks are hereby vested in Canada, so far as they are not already so vested.

16. The Parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of each of the said parks, notwithstanding that portions of any such area may not form of the park proper, and the laws now in force within such areas shall continue so in force only until changed by the Parliament of Canada or under its authority, provided, however, that all laws of the Province now or hereafter in force, which are not repugnant to any law or regulation made applicable within the said areas or any of them by or under the authority of the Parliament of Canada, shall extend to and be enforced within the same, and that all general taxing acts passed by the Province shall apply within the same unless expressly excluded from application therein by or under the authority of the Parliament of Canada.

17. On the termination, by effluxion of time or surrender or otherwise, of any interest in any lands included within any of the said areas which is outstanding in any person at the date of the coming into force of this agreement, the lands in which such interest existed shall vest in and shall thereafter be administered by Canada as part of the national park within the outer boundaries of which such lands lie.

18. All rights of the Crown in any waters within the said parks shall be vested in and administered by Canada, and the Province will not

by works outside any such park reduce the flow of water in any of the rivers or streams within the said park to less than the flow which the Minister of the Interior may deem necessary adequately to preserve the scenic beauty of the said park.

19. In the event of the Parliament of Canada at any time declaring that any of the said areas or any part of any of them are no longer required for national park purposes, the lands, mines, minerals (precious and base) and the royalties incident thereto specified in any such declaration shall forthwith upon the making thereof belong to the Province and the provisions of paragraphs one to five of this agreement shall apply thereto as from the date of such declaration.

20. In the event of it being hereafter agreed by Canada and the Province that any area or areas of land in the Province, in addition to those specified in Schedule Two to this agreement, should be set aside as national parks and be administered by Canada, the foregoing provisions of this agreement on the subject of parks may be applied to such area or areas with such modification as may be agreed upon.

SOLDIERS' SETTLEMENT LANDS

21. Nothing in this agreement shall have the effect of transferring to the Province the interest of Canada in any part of the said lands upon the security of which any advance has been made under the provisions of the *Soldier Settlement Act*, being chapter 188 of the Revised Statutes of Canada, 1927, and amending Acts, until after the provisions of the said Act have ceased to apply to or affect the said lands.

HISTORIC SITES AND BIRD SANCTUARIES

22. The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries which have been already established by Canada in the Railway Belt or Peace River Block, and will set aside such additional bird sanctuaries as may hereafter be established by agreement between the Minister of the Interior and the Attorney-General or such other Minister of the Province as may be specified under the laws thereof.

GENERAL RESERVATION TO CANADA

23. Except as herein otherwise expressly provided, nothing in this agreement shall be interpreted as applying so as to affect or transfer to the administration of the Province (a) any lands for which Crown grants have been made and registered under *The Land Registry Act* of the Province and of which His Majesty the King in the right of His Dominion of Canada is, or is entitled to become, the registered owner at the date upon which this agreement comes into force, or (b) any ungranted lands of the Crown upon which public money of Canada has been expended or which are, at the date upon which this agreement comes into force, in use or reserved by Canada for the purpose of the federal administration.

SUBSIDY CONTINUED

24. Notwithstanding the re-transfer of the hereinbefore recited lands, Canada will continue to pay annually to the Province, by half-yearly payments on the first days of January and July in each year, the sum of one hundred thousand dollars, as provided in paragraph eleven of the Terms of Union aforesaid.

RECORDS

25. Canada will, after the coming into force of this agreement, deliver to the Province from time to time at the request of the Province the originals or complete copies of all records in any department of the Government of Canada relating exclusively to any dealings with any of the lands hereby re-transferred to the Province and will give to the Province access to all other records, documents or entries relating to any such dealings and permit to be copied by the Province any of the documents required by it for the effective administration of the lands hereby transferred.

AMENDMENT OF AGREEMENT

26. The foregoing provisions of this agreement may be varied by agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province.

WHEN AGREEMENT COMES INTO FORCE

27. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of British Columbia, and shall take effect on the first day of the calendar month beginning next after the day upon which His Majesty gives His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same.

In witness whereof the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, have hereunto set their hands on behalf of the Dominion of Canada, and the Honourable Simon Fraser Tolmie, Premier and Minister of Railways of the said Province, and the Honourable Frederick Parker Burden, Minister of Lands thereof, have hereunto set their hands on behalf of the Province of British Columbia.

Signed on behalf of the Government of Canada by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior in the presence of	}	ERNEST LAPOINTE.
O. M. BIGGAR.		CHAS. STEWART.

Signed on behalf of the Government of British Columbia by the Honourable Simon Fraser Tolmie, Premier and Minister of Railways thereof, and the Honourable Frederick Parker Burden, Minister of Lands thereof.	}	S. F. TOLMIE.
		F. P. BURDEN.

R. H. POOLEY,
Attorney-General.

N. S. LOUGHEED,
Minister of Lands.

H. CATHCART,
Deputy Minister of Lands.

OSCAR C. BASS,
Deputy Attorney-General.

SCHEDULE ONE

WHARF LOCATIONS

Brownsville.	Riverside.
Coquitlam.	Mission.
Port Coquitlam.	Hatzic.
Minnekahda.	Dewdney.
Harris Road.	Murphy's Landing.
Hammond.	Magars Landing.
Port Moody.	Sumas.
Ioco.	Chilliwack Upper Landing.
Haney.	Minto Landing.
Albion.	Anglemont.
Whonnock.	Blind Bay.
Ruskin.	Canoe.
Donatella.	Celista.
Barnston Island.	Chase.
Port Kells.	Eagle Bay.
Gordon Road.	Wanlock.
McAdams.	Glenedon.
Langley.	Magna Bay.
McIvers.	Sicamous.
McKays.	Salmon Arm.
Glen Valley.	Seymour Arm.
Marsh's.	Sorrento.
Mount Lehman.	Scotch Creek.
Matsqui.	Pritchard.
S. F. T.	E. L.
F. P. B.	C. S.

SCHEDULE TWO

NATIONAL PARKS

1. Mount Revelstoke National Park, with the boundaries defined by the Proclamations based upon Orders in Council dated 28th April, 1914 (P.C. 1125); 5th May, 1920 (P.C. 985); 18th August, 1927 (P.C. 1645).
2. Glacier National Park, with the boundaries defined by the Proclamations based upon Orders in Council dated 8th June, 1911 (P.C. 1338); 12th August, 1911 (P.C. 1781); 11th February, 1930 (P.C. 134).
3. Yoho National Park, with the boundaries defined by the Proclamations based upon Orders in Council dated 8th June, 1911 (P.C. 1338); 21st April, 1920 (P.C. 828); 11th February, 1930 (P.C. 134).
4. Kootenay National Park as shown on the map certified by the Surveyor General of Canada on 1st February, 1928, and on file in the office of the Surveyor General, a copy thereof having been filed in the Department of Lands of the Province under number 7T 312.

S. F. T.	E. L.
F. P. B.	C. S.

THE MANITOBA NATURAL RESOURCES ACT

20-21 GEORGE V, CHAPTER 29

An Act respecting the transfer of the Natural Resources of Manitoba

[Assented to 30th May, 1930.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Manitoba Natural Resources Act*.

Agreement confirmed.

2. The agreement set out in the schedule hereto is hereby approved.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this fourteenth day of December, 1929

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF MANITOBA, represented herein by the Honourable John Bracken, Premier of Manitoba, and the Honourable Donald G. McKenzie, Minister of Mines and Natural Resources,

Of the second part.

Whereas by section thirty of the *Manitoba Act*, being chapter three of thirty-three Victoria, it was provided that all ungranted or waste lands in the Province should be vested in the Crown and administered by the Government of Canada for the purposes of the Dominion, subject to the conditions and stipulations contained in the Agreement for the surrender of Rupert's Land by the Hudson's Bay Company to Her Majesty;

And whereas the boundaries of the Province as defined by the *Manitoba Act* were altered and the area included in the said Province enlarged by the Statutes forty-four Victoria, chapter fourteen, and two George the Fifth, chapter thirty-two;

AND WHEREAS by an Order in Council adopted upon a report from the Right Honourable W. L. Mackenzie King, Prime Minister of Canada, and approved by His Excellency the Governor General on the first day of August, 1928, it was provided, pursuant to an agreement in that behalf entered into with representatives of the Government of the Province that the Province would be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources as from its entrance into Confederation in 1870, that a commission of three persons would be appointed to inquire into and report as to what financial readjustments should be made to effect that end and that upon agreement between the Government of Canada and the Government of the Province upon the financial terms, following consideration of the report of the Commission, a transfer would be made by Canada to the Province of the unalienated natural resources within the boundaries of the Province subject to any trust existing in respect thereof and without prejudice to any interest other than that of the Crown in the same;

AND WHEREAS a Commission, composed of the Honourable Mr. Justice W. F. A. Turgeon, the Honourable Thomas Alexander Crerar and Charles M. Bowman, Esquire, was appointed to conduct an inquiry into the financial readjustments involved in the proposed transfer, and the Commission has since reported its findings and these findings have been accepted and agreed to by the Government of Canada and the Government of the Province;

AND WHEREAS it is now expedient, in order to carry out the purpose of the aforesaid Order in Council and to give effect to the agreement arrived at in the premises between the Government of Canada and the Government of the Province, to modify the provisions of the statutes above referred to as herein set out.

Now Therefore This Agreement Witnesseth:

TRANSFER OF PUBLIC LANDS GENERALLY

1. In order that the Province may be in the same position as the original Provinces of Confederation are in virtue of section one hundred and nine of the *British North America Act, 1867*, the interest of the Crown in all Crown lands, mines, minerals (precious and base) and royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals or royalties, shall, from and after the coming into force of this agreement, and subject as therein otherwise provided, belong to the Province, subject to any trusts existing in respect thereof, and to any interest other than that of the Crown in the same, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof, subject, until the Legislature of the Province otherwise provides, to the provisions of any Act of the Parliament of Canada relating to such administration; any payment received by Canada in respect of any such lands, mines, minerals or royalties before the coming into force of this agreement shall continue to belong to Canada whether paid in advance or otherwise, it being the intention that, except as herein otherwise specially provided, Canada shall not be liable to account to the Province for any payment made in respect of any of the said lands, mines, minerals or royalties before the coming into force of this agreement, and that the Province shall not be liable to account to Canada for any such payment made thereafter.

2. The Province will carry out in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals and every other arrangement whereby any person has become entitled to any interest therein as against the Crown, and further agrees not to affect

or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto other than Canada or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who may be the parties thereto.

3. Any power or right, which, by any such contract, lease or other arrangement, or by any Act of the Parliament of Canada relating to any of the lands, mines, minerals or royalties hereby transferred, or by any regulation made under any such Act, is reserved to the Governor in Council or to the Minister of the Interior or any other officer of the Government of Canada, may be exercised by such officer of the Government of the Province as may be specified by the Legislature thereof from time to time, and until otherwise directed, may be exercised by the Minister of Mines and Natural Resources of the Province.

4. The Province will perform every obligation of Canada arising by virtue of the provisions of any statute or order in council or regulation in respect of the public lands to be administered by it hereunder to any person entitled to a grant of lands by way of subsidy for the construction of railways or otherwise or to any railway company for grants of land for right of way, road bed, stations, station grounds, workshops, buildings, yards, ballast pits or other appurtenances.

5. The Province will further be bound by and will, with respect to any lands or interests in lands to which the Hudson's Bay Company may be entitled, carry out the terms and conditions of the Deed of Surrender from the said Company to the Crown as modified by the *Dominion Lands Act* and the Agreement dated the 23rd day of December, 1924, between His Majesty and the said Company, which said Agreement was approved by Order in Council dated the 19th day of December, 1924 (P.C. 2158), and in particular the Province will grant to the Company any lands in the Province which the Company may be entitled to select and may select from the lists of lands furnished to the Company by the Minister of the Interior under and pursuant to the said Agreement of the 23rd day of December, 1924, and will release and discharge the reservation in patents referred to in clause three of the said agreement, in case such release and discharge has not been made prior to the coming into force of this agreement. Nothing in this agreement, or in any agreement varying the same as hereinafter provided, shall in any way prejudice or diminish the rights of the Hudson's Bay Company or affect any right to or interest in land acquired or held by the said Company pursuant to the Deed of Surrender from it to the Crown, the *Dominion Lands Act* or the said Agreement of the 23rd day of December, 1924.

SCHOOL LANDS FUND AND SCHOOL LANDS

6. Upon the coming into force of this Agreement, Canada will transfer to the Province the money or securities constituting that portion of the school lands fund, created under sections twenty-two and twenty-three of *The Act to amend and consolidate the several Acts respecting Public Lands of the Dominion*, being chapter thirty-one of forty-two Victoria, and subsequent statutes, which is derived from the disposition of any school lands within the Province or within those parts of the District of Keewatin and of the Northwest Territories now included within the boundaries of the said Province.

7. The School Lands Fund to be transferred to the Province as aforesaid and such of the school lands specified in section thirty-seven of the *Dominion Lands Act*, being chapter one hundred and thirteen of the Revised Statutes of Canada, 1927, as pass to the administration of the Province under the terms hereof, shall be set aside and shall continue to

be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the *Dominion Lands Act*, for the support of schools organized and carried on therein in accordance with the law of the Province.

WATER

8. The Province will pay to Canada, by yearly payments on the first day of January in each year after the coming into force of this agreement, the proportionate part, chargeable to the development of power on the Winnipeg River within the Province, of the sums which have been or shall hereafter be expended by Canada pursuant to the agreement between the Governments of Canada and of the Provinces of Ontario and Manitoba, made on the 15th day of November, 1922, and set forth in the schedule hereto, the Convention and Protocol relating to the Lake of the Woods entered into between His Majesty and the United States of America on the 24th day of February, 1925, and the *Lac Seul Conservation Act, 1928*, being chapter thirty-two of eighteen and nineteen George the Fifth, the annual payments hereunder being so calculated as to amortise the expenditures aforesaid in a period of fifty years from the date of the coming into force of this agreement and the interest payable to be at the rate of five per cent per annum.

9. Canada agrees that the provision contained in section four of the *Dominion Water Power Act*, being chapter two hundred and ten of the Revised Statutes of Canada, 1927, that every undertaking under the said Act is declared to be a work for the general advantage of Canada, shall stand repealed as from the date of the coming into force of this agreement in so far as the same applies to such undertakings within the Province; nothing in this paragraph shall be deemed to affect the legislative competence of the Parliament of Canada to make hereafter any declaration under the tenth head of section ninety-two of the *British North America Act, 1867*.

FISHERIES

10. Except as herein otherwise provided, all rights of fishery shall, after the coming into force of this agreement, belong to and be administered by the Province, and the Province shall have the right to dispose of all such rights of fishery by sale, licence or otherwise, subject to the exercise by the Parliament of Canada of its legislative jurisdiction over sea-coast and inland fisheries.

INDIAN RESERVES

11. All lands included in Indian reserves within the Province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the Minister of Mines and Natural Resources of the Province, select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the Province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof.

12. The provisions of paragraphs one to six inclusive and of paragraph eight of the agreement made between the Government of the Dominion of Canada and the Government of the Province of Ontario on the 24th day of March, 1924, which said agreement was confirmed by Statute of Canada, fourteen and fifteen George the Fifth chapter forty-eight, shall (except so far as they relate to the *Bed of Navigable Waters Act*) apply

to the lands included in such Indian reserves as may hereafter be set aside under the last preceding clause as if the said agreement had been made between the parties hereto, and the provisions of the said paragraphs shall likewise apply to the lands included in the reserves heretofore selected and surveyed, except that neither the said lands nor the proceeds of the disposition thereof shall in any circumstances become administrable by or be paid to the Province.

13. In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Province from time to time shall apply to the Indians within the boundaries thereof, provided, however, that the said Indians shall have the right, which the Province hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access.

SOLDIER SETTLEMENT LANDS

14. All interests in Crown lands in the Province upon the security of which any advance has been made under the provisions of the *Soldier Settlement Act*, being chapter 188 of the Revised Statutes of Canada, 1927, and amending Acts, shall continue to be vested in and administered by the Government of Canada for the purposes of Canada.

NATIONAL PARK

15. The lands specified as included in the Riding Mountain Forest Reserve, as such reserve is described in the schedule to the *Dominion Forest Reserves and Parks Act*, being chapter seventy-eight of the Revised Statutes of Canada, 1927, as amended by eighteen and nineteen George the Fifth chapter twenty, shall be established as a national park, and the said lands, together with the mines and minerals (precious and base) in such area and the royalties incident thereto shall continue to be vested in and shall be administered by the Government of Canada for the purposes of a national park, but in the event of the Parliament of Canada at any time declaring that the said lands or any part thereof are no longer required for such purposes, the lands, mines, minerals (precious and base) and the royalties incident thereto, specified in any such declaration, shall forthwith upon the making thereof belong to the Province, and the provisions of paragraph three of this agreement shall apply thereto as from the date of such declaration.

16. The Parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of the said park, notwithstanding that portions of such area may not form part of the park proper; the laws now in force within the said area shall continue in force only until changed by the Parliament of Canada or under its authority, provided, however, that all laws of the Province now or hereafter in force, which are not repugnant to any law or regulation made applicable within the said area by or under the authority of the Parliament of Canada, shall extend to and be enforceable within the same, and that all general taxing acts passed by the Province shall apply within the same unless expressly excluded from application therein by or under the authority of the Parliament of Canada.

SEED GRAIN, ETC., LIENS

17. Every lien upon any interest in any unpatented land passing to the Province under this agreement, which is now held by Canada as security for an advance made by Canada for seed grain, fodder or other relief, shall continue to be vested in Canada, but the Province will, on behalf of Canada, collect the sums due in respect of such advances, except so far as

the same are agreed to be uncollectible, and upon payment of any advance, any document required to be executed to discharge the lien may be executed by such officer of the Province as may be authorized by any provincial law in that behalf; the Province will account for and pay to Canada all sums belonging to Canada collected hereunder, subject to such deduction to meet the expenses of collection as may be agreed upon between the Minister of the Interior and the Minister of Mines and Natural Resources or such other Minister of the Province as may be designated in that behalf under the laws thereof.

GENERAL RESERVATION TO CANADA

18. Except as herein otherwise expressly provided, nothing in this agreement shall be interpreted as applying so as to affect or transfer to the administration of the Province (a) any lands for which Crown grants have been made and registered under the *Real Property Act* of the Province and of which His Majesty the King in the right of His Dominion of Canada is, or is entitled to become the registered owner at the date upon which this agreement comes into force, or (b) any ungranted lands of the Crown upon which public money of Canada has been expended or which are, at the date upon which this agreement comes into force, in use or reserved by Canada for the purpose of the federal administration.

HISTORIC SITES, BIRD SANCTUARIES, ETC.

19. The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between the Minister of the Interior and the Minister of Mines and Natural Resources, or such other Minister of the Province as may be specified under the laws thereof.

FINANCIAL TERMS

20. In lieu of the provision made by section five of the Statute two George the Fifth chapter thirty-two above referred to, Canada will, from and after the date of the coming into force of this agreement, pay to the Province by half-yearly payments in advance, on the first days of January and July in each year, an annual sum based upon the population of the Province as from time to time ascertained by the quinquennial census thereof, as follows:

The sum payable until the population of the said Province reaches eight hundred thousand shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

21. If at the date of the coming into force of this agreement any payment has been made under the provisions of section five of the Statute two George the Fifth chapter thirty-two above referred to in respect of any half-year commencing before but terminating, after the said date, a proportionate part of the payment so made shall be taken as having been made under the provisions hereof.

22. In order to provide an adequate financial readjustment in favour of the Province for the period intervening between its entrance into Confederation in 1870 and the first day of July, 1908, before which date

it received either no subsidy in lieu of public lands or a smaller subsidy than it should have received in order to put it on an equality with the other Provinces, Canada, forthwith after the coming into force of this agreement, will, in accordance with the report of the hereinbefore recited Commission, pay to the said Province the sum of four million, five hundred and eighty-four thousand two hundred and twelve dollars and forty-nine cents with interest thereon at the rate of five per cent per annum from the first day of July, 1929.

RECORDS

23. Canada will after the coming into force of this agreement, deliver to the Province from time to time at the request of the Province the originals or complete copies of all records in any department of the Government of Canada relating exclusively to dealings with Crown lands, mines and minerals, and royalties derived therefrom within the Province, and will give to the Province access to all other records, documents or entries relating to any such dealings and permit to be copied by the Province any of the documents required by it for the effective administration of the Crown lands, mines, minerals and royalties.

AMENDMENT OF AGREEMENT

24. The foregoing provisions of this agreement may be varied by agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province.

WHEN AGREEMENT COMES INTO FORCE

25. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Manitoba, and shall take effect on the fifteenth day of July, 1930, if His Majesty has theretofore given His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same, and if He has not given such Assent before the said day, then on such date as may be agreed upon.

IN WITNESS WHEREOF the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, have hereunto set their hands on behalf of the Dominion of Canada, and the Honourable John Bracken, Premier of Manitoba, and the Honourable Donald G. McKenzie, Minister of Mines and Natural Resources thereof, have hereunto set their hands on behalf of the Province of Manitoba.

Signed on behalf of the Government of Canada by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, in the presence of	}	ERNEST LAPOINTE.
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O. M. BIGGAR.

CHAS. STEWART.

Signed on behalf of the Province of Manitoba by the Honourable John Bracken, Premier of the said Province, and the Honourable Donald G. McKenzie, Minister of Mines and Natural Resources thereof, in the presence of	}	JOHN BRACKEN.
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W. J. MAJOR.

DONALD G. MCKENZIE.

SCHEDULE

AGREEMENT BETWEEN CANADA, ONTARIO AND MANITOBA

OTTAWA, November 15, 1922.

MEMORANDUM: of agreement arrived at regarding the control of the upper waters of the Winnipeg River.

PRESENT:

Representing the Dominion Government

Right Honourable Mackenzie King, Prime Minister; Honourable Charles Stewart, Minister of the Interior; Mr. W. W. Cory, Deputy Minister of the Interior.

In attendance

Mr. W. J. Stewart and Mr. J. B. Challies, Consulting Engineers to the Department of External Affairs; Mr. S. S. Scovil, Engineer of Lake of the Woods Control Board.

Representing the Province of Ontario

Honourable E. C. Drury, Premier.

In attendance

Mr. H. G. Acres and Mr. L. V. Rorke.

Representing the Province of Manitoba

Honourable John Bracken, Premier.
Honourable R. W. Craig, Attorney-General; also
Honourable T. H. Johnson, K.C., Counsel.

This agreement, as a working basis for the regulation of the English and Winnipeg rivers, is entered into on the understanding that all parties are agreeable to the repeal of the Lake of the Woods Regulation Act 1920, but Ontario does not bind itself to the terms of this agreement in the event of that Act not being repealed.

The Government representatives agreed that the general advantage legislation could be rescinded on the following basis (Mr. Bracken undertaking to urge the acceptance thereof by the Manitoba power interests):

1. *Control of Lake of the Woods*

The recommendation of the Lake of the Woods Control Board that the Norman Dam be expropriated was agreed to in principle.

It was further understood that the Board should immediately investigate and report to the three governments concerned, whether,

- (1) There is some alternative method of securing control by construction of a new structure above the present dam or otherwise;
- (2) Failing such an alternative being found, under what procedure and whether under Federal or Provincial auspices should the dam be expropriated.

The cost of securing the results contemplated under either (1) or (2) above should be borne on the following basis,—

One-third of the total cost to be attributable to navigation and borne by the Federal Government;

The remaining two-thirds to be considered chargeable to power, to be borne in the first instance by the expropriating Government, but

- (a) Ontario to be responsible for the share chargeable to the undeveloped power site at White Dog Falls;
- (b) The Federal Government (as proprietors of the water powers on the Winnipeg river in Manitoba) to be responsible in the first instance for the amount chargeable to the remaining fall of the Winnipeg river in the Province of Manitoba; the Department of the Interior to recover cost of same from the present power developments on the river and from prospective power developments on such basis as that Department may consider advisable.

So far as the amount chargeable to power is concerned, the basis of settlement between the Dominion Government and the Province of Ontario should be that of the ratio of potential head in Ontario and Manitoba.

2. Regulation under Concurrent Legislation

It was agreed that the Lake of the Woods Control Board should be instructed to immediately canvass the necessities of the situation and make appropriate recommendations to the Governments of Canada and Ontario with a view to having approved and authorized whatever operating regulations are considered necessary to make practically effective the existing concurrent legislation.

3. Lac Seul

With regard to storage on Lac Seul, it is agreed that if the power interests in Manitoba or their administrative agency desire storage on Lac Seul, they shall immediately notify the Government of Ontario to this effect. In the event of such notification the Government of Ontario shall undertake not to permit the construction of any development which would later be destroyed, wholly or in part, by the creation of this storage, and shall agree to grant flooding rights, on Crown Lands affected, under the customary conditions, including recompense for timber destroyed, and the usual rental for water powers which may be wholly or partially destroyed incidental to the construction of the said works. Further, the power interests benefited shall be prepared, when required by the Government of Ontario, to pay the said Government an amount to be ascertained by the Control Board, sufficient to pay the difference between the cost of power feasible of development at Pelican Falls and the cost of a similar amount of power to be developed at some other possible site designated by the Government of Ontario and delivered at Sioux Lookout at a distribution voltage.

It is agreed that whatever storage scheme may be worked out covering Lac Seul shall be under the jurisdiction of the Lake of the Woods Control Board, the cost of the same to be borne by the power interests as and when benefited.

4. International Questions

With regard to the international issues it was unanimously agreed that there was not sufficient data to enable a commitment at the present stage with regard to storage and regulation on Rainy and upper international lakes, and that in any case all the interests concerned, governmental, municipal, corporate and private, on both sides of the boundary, should be afforded the opportunity and the advantage of presenting their views, and of hearing the views of others presented, to the International Joint Commission.

It was further agreed that the basis for an international arrangement between the two countries arrived at by the technical advisers of the United States and Canada at Washington in December, should be adhered to, namely,—

- (a) An immediate settlement by treaty of the Lake of the Woods issues; and
- (b) Concurrent with the ratification of such a treaty, an appropriate reference to the International Joint Commission respecting Rainy and upper lakes matters.

It was further agreed that once a reference of the upper lakes matter has been agreed to, the Canadian Governments, Dominion and Provincial, should facilitate in every possible way, a thorough investigation and an early report by the International Joint Commission, but that pending such a report, the Dominion Government could not make any commitment as to policy.

With regard to financial obligations arising under settlement of the Lake of the Woods issues it was agreed that the same should be borne by the respective Governments on the same basis as that set out above for the acquirement of the Norman Dam.

(Sgd.) E. C. DRURY,
For the Government of Ontario.

(Sgd.) JOHN BRACKEN,
For the Government of Manitoba.

(Sgd.) W. L. MACKENZIE KING,
For the Government of Canada.

THE MANITOBA NATURAL RESOURCES TRANSFER (AMENDMENT) ACT, 1948⁽¹⁾

11-12 GEORGE VI, CHAPTER 60

An Act to amend The Manitoba Natural Resources Act

1930, c. 29;
1938, c. 36.

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Manitoba Natural Resources Transfer (Amendment) Act, 1948*.

Agreement confirmed.

2. The Agreement set out in the Schedule is hereby confirmed and shall take effect according to its terms.

SCHEDULE

MEMORANDUM OF AGREEMENT made the nineteenth day of April, A.D. 1948.

BETWEEN

THE GOVERNMENT OF CANADA, represented herein by the Honourable James Angus MacKinnon, Acting Minister of Mines and Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF MANITOBA, represented herein by the Honourable John Stewart McDiarmid, Minister of Mines and Natural Resources,

Of the second part.

(1) In July, 1947, the Government of Manitoba appointed a Commission to enquire into matters relating to water power in Manitoba. In March, 1948, the Commission recommended, among other things, the consolidation in a single Provincial agency of exclusive responsibility for the development and operation of all hydro electric power plants in Manitoba. To carry out this recommendation the Government of Manitoba considered it desirable to enact legislation with respect to the expropriation of any property, works, plant, lands, easements, rights, privileges, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment constructed, acquired or used in the generation, development or transmission of electrical power and energy in Manitoba, or in the taking, use, diversion, storage or pondage of water for any of the said purposes.

To remove any doubt as to the power of the Government of Manitoba to do so, an amendment was required to clause 2 of the Manitoba Natural Resources Transfer Agreement.

The necessary amendment to section 2 is embodied in an agreement between the Government of Canada and the Government of Manitoba, which was approved by Order in Council P.C. 1719, dated 17th April, 1948, and which appears as a schedule to the bill. This agreement was previously confirmed by the Legislature of Manitoba.

WHEREAS the agreement entered into between the parties hereto on the 14th day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement) was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930", assented to on 10th July, 1930, being chapter twenty-six of the Imperial Statutes, 20-21 George V;

AND WHEREAS by paragraph twenty-four of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said agreement might be varied by an agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS the said Natural Resources Transfer Agreement came into force pursuant to the provisions thereof, on the 15th day of July, 1930;

AND WHEREAS the provisions of the said Natural Resources Transfer Agreement were, pursuant to the provisions of said paragraph twenty-four thereof, varied by an agreement made between the Government of Canada of the first part and the Government of the Province of Manitoba of the second part, on the 5th day of March, A.D. 1938, and confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS by paragraph two of the Natural Resources Transfer Agreement, the Province agreed that it would carry out, in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals and every other arrangement whereby any person had become entitled to any interest therein as against the Crown, and further agreed not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto, other than Canada, or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who might be the parties thereto;

AND WHEREAS it has been agreed between Canada and the said Province that the terms of said paragraph two should be further varied as herein set out;

Now THEREFORE this Agreement witnesseth that:

1. Paragraph two of the said Natural Resources Transfer Agreement is varied by adding at the end thereof, the following words:

"or except in so far as any legislation

(a) is legislation relating to the control and regulation of the generation, development, transformation, transmission, utilization, distribution, supply, delivery, dealing in, sale and use of electrical power and energy in Manitoba, and of the flow and right to the use, for the generation and development of such power and energy, or any other purpose connected therewith, of the water at any time in any river, stream, watercourse, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh or other body of water within the Province and the taking, diversion, storage or pondage of such water for any of the said purposes, whether by restriction, prohibition or otherwise and whether generally or with respect to any specified area therein;

or

(b) is legislation providing for the taking, acquisition and purchase by agreement or compulsorily or otherwise or by expropriation of any indentures, agreements, arrangements, permits, interim permits,

final licences, licences, interim licences, leases, interim leases, rights, liberties, privileges, easements, benefits, advantages or other concessions of any person of whatever nature, in relation to the flow and right to the use of the said water or the taking, diversion, storage or pondage thereof for the generation and development of electric power and energy, the utilization, transmission, distribution and sale of such power and energy, the occupation and use of Crown lands of the Province for the maintenance and operation of hydro-electric and other works of any person and any other rights, liberties, privileges, easements, benefits, advantages and concessions connected therewith or incidental or appurtenant thereto;

or

- (c) is legislation providing for the taking, acquisition and purchase by agreement or compulsorily or otherwise or by expropriation of any property, works, plant, lands, easements, rights, privileges, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment of any person constructed, acquired or used in the generation, development or transmission of such power and energy or in the taking, use, diversion, storage or pondage of said water, and whether generally in the said Province or in any specified area therein."

2. This agreement is made subject to its being confirmed by the Parliament of Canada and by the Legislature of the Province of Manitoba, and shall take effect on the first day of the calendar month beginning next after its confirmation as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In witness whereof the Honourable James Angus MacKinnon, Acting Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable John Stewart McDiarmid, Minister of Mines and Natural Resources, has hereunto set his hand on behalf of the Province of Manitoba.

Signed on behalf of the Government
of Canada by the Honourable
James Angus MacKinnon, Acting
Minister of Mines and Resources,

in the presence of:

A. C. L. ADAMS.

JAS. A. MACKINNON.

Signed on behalf of the Govern-
ment of Manitoba by the Honour-
able John Stewart McDiarmid,
Minister of Mines and Natural
Resources,

in the presence of:

D. M. STEPHENS.

J. S. MCDIARMID.

THE MANITOBA NATURAL RESOURCES TRANSFER (AMENDMENT) ACT, 1951

15 GEORGE VI, CHAPTER 53

An Act to vary the Manitoba Natural Resources Agreement⁽¹⁾

[Assented to 30th June, 1951.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act may be cited as *The Manitoba Natural Resources Transfer (Amendment) Act, 1951*. Short title.

2. The Agreement set out in the Schedule to this Act is hereby confirmed and shall take effect according to its terms. Agreement confirmed.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this eleventh day of June, 1951.

BETWEEN

THE GOVERNMENT OF CANADA, represented herein by the Honourable
Douglas Charles Abbott, Minister of Finance,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF MANITOBA, represented herein
by the Honourable Douglas Lloyd Campbell, Premier of Manitoba,

Of the second part.

WHEREAS the Agreement entered into between the parties hereto on the 14th day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement), was duly approved by the Parliament of Canada and the Legislature of the Province and upon an address to His Majesty from the Senate and House of Commons of

(1) The purpose of this Act was to approve an agreement with the province concerned to amend the Natural Resources Transfer Agreement for the purpose of permitting the province to invest the School Lands Fund in a wider range of securities than at that time permitted. The approval of Parliament and of the Legislature of the province concerned was required before the amendment took effect.

Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930" being chapter twenty-six of the Imperial Statutes, 20-21 George V;

AND WHEREAS by paragraph twenty-four of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS paragraphs six and seven of the Natural Resources Transfer Agreement provide as follows:

"6. Upon the coming into force of this Agreement, Canada will transfer to the Province the money or securities constituting that portion of the School Lands Fund, created under sections twenty-two and twenty-three of the Act to amend and consolidate the several Acts respecting Public Lands of the Dominion, being chapter thirty-one of forty-two Victoria, and subsequent statutes, which is derived from the disposition of any school lands within the Province or within that part of the Northwest Territories now included within the boundaries thereof."

"7. The School Lands Fund to be transferred to the Province as aforesaid, and such of the school lands specified in section thirty-seven of the Dominion Lands Act, being chapter one hundred and thirteen of the Revised Statutes of Canada, 1927, as pass to the administration of the Province under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the Dominion Lands Act, for the support of schools organized and carried on therein in accordance with the law of the Province."

AND WHEREAS the effect of these provisions is that money obtained from the sale of the school lands specified therein and the said School Lands Fund may be invested only in securities of Canada;

AND WHEREAS it has been agreed that provision should be made for the investment of such money in other securities as hereinafter provided:

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. Paragraph seven of the Natural Resources Transfer Agreement is amended by adding thereto the following provision:

"The Province will, notwithstanding anything in this Agreement, invest money to which this paragraph applies in securities of Canada, or of a Province, or of a municipal corporation or school district in the Province of Manitoba, or in securities guaranteed by Canada or a Province, to form a school fund, and will apply the interest arising therefrom, after deducting the cost of management, for the support of schools organized and carried on in accordance with the law of the Province."

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Manitoba, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

IN WITNESS WHEREOF, the Honourable Douglas Charles Abbott, Minister of Finance, has hereunto set his hand on behalf of Canada, and the Honourable Douglas Lloyd Campbell, Premier of Manitoba, has hereunto set his hand on behalf of the Province of Manitoba.

Signed on behalf of the Government of Canada by the Honourable Douglas Charles Abbott, Minister of Finance, in the presence of	}	(Sgd.) D. C. ABBOTT.
(Sgd.) W. C. CLARK.		

Signed on behalf of the Government of Manitoba by the Honourable Douglas Lloyd Campbell, Premier of Manitoba, in the presence of	}	(Sgd.) DOUGLAS CAMPBELL.
THORA SIGURDSON.		

THE SASKATCHEWAN NATURAL RESOURCES ACT

20-21 GEORGE V, CHAPTER 41

An Act respecting the transfer of the Natural Resources of Saskatchewan

[Assented to 30th May, 1930.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Saskatchewan Natural Resources Act*.

Agreement confirmed.

2. The agreement set out in the schedule hereto is hereby approved.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this 20th day of March, 1930.

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN, represented herein by the Honourable James Thomas Milton Anderson, Premier and Minister of Education of the Province, and the Honourable Murdoch Alexander MacPherson, Attorney-General,

Of the second part.

WHEREAS by section twenty-one of the *Saskatchewan Act*, being chapter forty-two of the four and five Edward the Seventh, it was provided that "All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the Province under the *North-West Irrigation Act, 1898*, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said Province with the substitution therein of the said Province for the North-West Territories;"

AND WHEREAS the Government of Canada desires that the Province should be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources as from its entry into Confederation in 1905;

AND WHEREAS the Government of the Province contends that, before the Province was constituted and entered into Confederation as aforesaid, the Parliament of Canada was not competent to enact that the natural resources within the area now included within the boundaries of the Province should vest in the Crown and be administered by the Government of Canada for the purposes of Canada and was not entitled to administer the said natural resources otherwise than for the benefit of the residents within the said area, and moreover that the Province is entitled to be and should be placed in a position of equality with the other Provinces of Confederation with respect to its natural resources as from the fifteenth day of July, 1870, when Rupert's Land and the North-Western Territory were admitted into and became part of the Dominion of Canada;

AND WHEREAS it has been agreed between Canada and the said Province that the said section of the *Saskatchewan Act* should be modified and that provision should be made for the determination of the respective rights and obligations of Canada and the Provinces as herein set out;

NOW THEREFORE This Agreement Witnesseth:

TRANSFER OF PUBLIC LANDS GENERALLY

1. In order that the Province may be in the same position as the original Provinces of Confederation are in virtue of section one hundred and nine of the *British North America Act, 1867*, the interest of the Crown in all Crown lands, mines, minerals (precious and base) and royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals or royalties, shall from and after the coming into force of this agreement and subject as therein otherwise provided, belong to the Province, subject to any trusts existing in respect thereof, and to any interest other than that of the Crown in the same, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof, subject, until the Legislature of the Province otherwise provides, to the provisions of any Act of the Parliament of Canada relating to such administration; any payment received by Canada in respect of any such lands, mines, minerals or royalties before the coming into force of this agreement shall continue to belong to Canada whether paid in advance or otherwise, it being the intention that, except as herein otherwise specially provided, Canada shall not be liable to account to the Province for any payment made in respect of any of the said lands, mines, minerals, or royalties before the coming into force of this agreement, and that the Province shall not be liable to account to Canada for any such payment made thereafter.

2. The Province will carry out in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals and every other arrangement whereby any person has become entitled to any interest therein as against the Crown, and further agrees not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto other than Canada or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who may be the parties thereto.

3. Any power or right, which, by any such contract, lease or other arrangement, or by any Act of the Parliament of Canada relating to any of the lands, mines, minerals or royalties hereby transferred or by any regulation made under any such Act, is reserved to the Governor in Council or to the Minister of the Interior or any other officer of the Government of Canada, may be exercised by such officer of the Government of the Province as may be specified by the Legislature thereof from time to time, and until otherwise directed, may be exercised by the Provincial Secretary of the Province.

4. The Province will perform every obligation of Canada, arising by virtue of the provisions of any statute or Order in Council or regulation in respect of the public lands to be administered by it hereunder, to any person entitled to a grant of lands by way of subsidy for the construction of railways or otherwise or to any railway company for grants of lands for right of way, road bed, stations, station grounds, workshops, buildings, yards, ballast pits or other appurtenances.

5. The Province will further be bound by and will, with respect of any lands or interests in lands to which the Hudson's Bay Company may be entitled, carry out the terms and conditions of the Deed of Surrender from the said Company to the Crown as modified by the *Dominion Lands Act* and the agreement dated the 23rd day of December, 1924, between His Majesty and the said Company, which said Agreement was approved by Order in Council dated the 19th day of December, 1924 (P.C. 2158), and in particular the Province will grant to the Company any lands in the Province which the Company may be entitled to select and may select them from the lists of lands furnished to the Company by the Minister of the Interior under and pursuant to the said agreement of the 23rd day of December, 1924, and will release and discharge the reservation in patents referred to in clause three of the said agreement, in case such release and discharge has not been made prior to the coming into force of this agreement. Nothing in this agreement, or in any agreement varying the same as hereinafter provided, shall in any way prejudice or diminish the rights of the Hudson's Bay Company or affect any right to or interest in land acquired or held by the said Company pursuant to the Deed of Surrender from it to the Crown, the *Dominion Lands Act* or the said agreement of the 23rd day of December, 1924.

SCHOOL LANDS FUND AND SCHOOL LANDS

6. Upon the coming into force of this agreement, Canada will transfer to the Province the money or securities constituting that portion of the school lands fund, created under sections twenty-two and twenty-three of the *Act to amend and consolidate the several Acts respecting Public Lands of the Dominion*, being chapter thirty-one of forty-two Victoria, and subsequent statutes, which is derived from the disposition of any school lands within the Province or within that part of the Northwest Territories now included within the boundaries thereof.

7. The school lands fund to be transferred to the Province as aforesaid, and such of the school lands specified in section thirty-seven of the *Dominion Lands Act*, being chapter one hundred and thirteen of the *Revised Statutes of Canada, 1927*, as passed to the administration of the Province, under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the *Dominion Lands Act*, for the support of schools organized and carried on therein in accordance with the law of the Province.

WATER

8. Canada agrees that the provision contained in section four of the *Dominion Water Power Act*, being chapter two hundred and ten of the *Revised Statutes of Canada, 1927*, that every undertaking under the said Act is declared to be a work for the general advantage of Canada, shall stand repealed as from the date of the coming into force of this agreement in so far as the same applies to undertakings within the Province; nothing in this paragraph shall be deemed to affect the legislative competence of the Parliament of Canada to make hereafter any declaration under the tenth head of section ninety-two of the *British North America Act, 1867*.

FISHERIES

9. Except as herein otherwise provided, all rights of fishery shall, after the coming into force of this agreement, belong to and be administered by the Province, and the Province shall have the right to dispose of all such rights of fishery by sale, licence or otherwise, subject to the exercise by the Parliament of Canada and its legislative jurisdiction over sea-coast and inland fisheries.

INDIAN RESERVES

10. All lands included in Indian reserves within the Province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the appropriate Minister of the Province, select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the Province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof.

11. The provisions of paragraphs one to six inclusive and of paragraph eight of the agreement made between the Government of the Dominion of Canada and the Government of the Province of Ontario on the 24th day of March, 1924, which said agreement was confirmed by Statute of Canada, fourteen and fifteen George the Fifth chapter forty-eight, shall (except so far as they relate to the *Bed of Navigable Waters Act*) apply to the lands included in such Indian reserves as may hereafter be set aside under the last preceding clause as if the said agreement had been made between the parties hereto, and the provisions of the said paragraphs shall likewise apply to the lands included in the reserves heretofore selected and surveyed, except that neither the said lands nor the proceeds of the disposition thereof shall in any circumstances become administrable by or be paid to the Province.

12. In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Province from time to time shall apply to the Indians within the boundaries thereof, provided, however, that the said Indians shall have the right, which the Province hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access.

SOLDIER SETTLEMENT LANDS

13. All interest in Crown lands in the Province upon the security of which any advance has been made under the provisions of the *Soldier Settlement Act*, being chapter 188 of the *Revised Statutes of Canada, 1927*, and amending Acts, shall continue to be vested in and administered by the Government of Canada for the purposes of Canada.

NATIONAL PARKS

14. The Prince Albert National Park shall continue as a national park and the lands included therein as the same are described in Orders made by the Governor in Council on the twenty-fourth day of March, 1927 (P.C. 524), the eighteenth day of October, 1928 (P.C. 1846) and the sixth day of February, 1929 (P.C. 162), together with the mines and minerals (precious and base) in the said park and the royalties incident thereto.

shall continue to be vested in and administered by the Government of Canada as a national park, but in the event of the Parliament of Canada at any time declaring that the said land or any part thereof is no longer required for park purposes, the lands, mines, minerals (precious and base) and the royalties incident thereto, specified in any such declaration, shall forthwith upon the making thereof belong to the Province, and the provisions of paragraph three of this agreement shall apply thereto as from the date of such declaration.

15. The Parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of the said park, notwithstanding that portions of the said area may not form part of the park proper; the laws now in force within the said area shall continue in force only until changed by the Parliament of Canada or under its authority, provided, however, that all laws of the Province now or hereafter in force, which are not repugnant to any law or regulation made applicable within the said area by or under the authority of the Parliament of Canada, shall extend to and be enforceable within the same, and that all general taxing Acts passed by the Province shall apply within the same unless expressly excluded from application therein by or under the authority of the Parliament of Canada.

16. The Province will not, by works outside the boundaries of the said park, reduce the flow of water in any of the rivers or streams within the same to less than that which the Minister of the Interior may deem necessary adequately to preserve the scenic beauties of the said park.

17. In the event of its being hereafter agreed by Canada and the Province that any area or areas of land in the Province, in addition to that hereinbefore specified, should be set aside as national parks and be administered by Canada, the foregoing provisions of this agreement on the subject of parks may be applied to such area or areas with such modification as may be agreed upon.

SEED GRAIN, ETC., LIENS

18. Every lien upon every interest in any unpatented land passing to the Province under this agreement, which is now held by Canada as security for an advance made by Canada for seed grain, fodder or other relief, shall continue to be vested in Canada, but the Province will, on behalf of Canada, collect the sums due in respect of such advances, except so far as the same are agreed to be uncollectible, and upon payment of any such advance, any document required to be executed to discharge the lien may be executed by such officer of the Province as may be authorized by any provincial law in that behalf; the Province will account for and pay to Canada all sums belonging to Canada collected hereunder, subject to such deduction to meet the expenses of collection as may be agreed upon between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be designated in that behalf under the laws thereof.

GENERAL RESERVATION TO CANADA

19. Except as herein otherwise expressly provided, nothing in this agreement shall be interpreted as applying so as to affect or transfer to the administration of the Province (a) any lands for which Crown grants have been made and registered under the *Land Titles Act* of the Province and of which His Majesty the King in the right of His Dominion of Canada is, or is entitled to become the registered owner at the date upon which this agreement comes into force, or (b) any ungranted lands of the Crown upon which public money of Canada has been expended or which are, at the date upon which this agreement comes into force, in use or reserved by Canada for the purpose of the federal administration.

HISTORIC SITES, BIRD SANCTUARIES, ETC.

20. The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be specified under the laws thereof.

FINANCIAL TERMS

21. In lieu of the provision made by subsection one of section twenty of the *Saskatchewan Act*, Canada will, from and after the date of the coming into force of this agreement, pay to the Province by half-yearly payments in advance, on the first days of January and July in each year, an annual sum based upon the population of the Province as from time to time ascertained by the quinquennial census thereof, as follows:

The sum payable until such population reaches one million two hundred thousand shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

22. If at the date of the coming into force of this agreement any payment has been made under subsection one of section twenty of the *Saskatchewan Act* in respect of any half-year commencing before but terminating after the said date, a proportionate part of the payment so made shall be taken as having been made under the provisions hereof.

23. Provision will be made pursuant to section fifty-five of the *Supreme Court Act*, being chapter thirty-five of the *Revised Statutes of Canada, 1927*, to submit for the consideration of the Supreme Court of Canada questions agreed upon between the parties hereto as being appropriate to obtain the judgment of the said Court, subject to appeal to His Majesty in Council in accordance with the usual practice, as to the rights of Canada and the Province respectively, before the first day of September, 1905, in or to the lands, mines or minerals (precious or base), now lying within the boundaries of the Province and as to any alienation by Canada before the said date of any of the said lands, mines or minerals or royalties incident thereto.

24. As soon as final answers to the questions submitted upon the last preceding paragraph have been given, the Government of Canada will appoint three persons to be agreed upon to be Commissioners under Part I of the *Inquiries Act*, to inquire and report whether any, and if any, what consideration, in addition to the sums provided in paragraph twenty-one hereof, shall be paid to the Province in order that the Province may be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources either as from the first day of September, 1905, or as from such earlier date, if any, as may appear to be proper having regard to the answers to the questions submitted as aforesaid; such commissioners to be empowered to decide what financial or other considerations are relevant to the inquiry and the report to be submitted to the Parliament of Canada and to the Legislature of Saskatchewan, if by the said report, the payment of any additional consideration is recommended, then, upon agreement between the Governments of Canada and of the Province following the submission of such report, the said Governments will respectively introduce the legislation necessary to give effect to such agreement.

RECORDS

25. Canada will, after the coming into force of this agreement, deliver to the Province from time to time at the request of the Province the originals or complete copies of all records in any department of the Government of Canada relating exclusively to dealings with Crown lands, mines and minerals, and royalties derived therefrom within the Province, and will give to the Province access to all other records, documents or entries relating to any such dealings and permit to be copied by the Province any of the documents required by it for the effective administration of the Crown lands, mines, minerals and royalties.

AMENDMENT OF AGREEMENT

26. The foregoing provisions of this agreement may be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province.

RESERVATION OF RIGHTS

27. This agreement is signed on behalf of the Province with the reservation on its part that neither the execution thereof nor any statute confirming the same shall affect or prejudice any right the Province may now have to call into question the legislative competence of the Parliament of Canada to enact certain sections of the *Saskatchewan Act* and the *Dominion Lands Acts*.

WHEN AGREEMENT COMES INTO FORCE

28. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Saskatchewan, and shall take effect on the first day of the calendar month beginning next after the day upon which His Majesty gives His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same.

In witness whereof the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, have hereunto set their hands on behalf of the Dominion of Canada, and the Honourable James Thomas Milton Anderson, Premier and Minister of Education of the Province, and the Honourable Murdoch Alexander MacPherson, Attorney-General thereof, have hereunto set their hands on behalf of the Province of Saskatchewan.

Signed on behalf of the Government of Canada, by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, in the presence of	}	ERNEST LAPOINTE.
O. M. BIGGAR.		CHAS. STEWART.

Signed on behalf of the Province of Saskatchewan by the Honourable James Thomas Milton Anderson, Premier and Minister of Education, and the Honourable Murdoch Alexander MacPherson, Attorney-General, in the presence of	}	J. T. M. ANDERSON.
JAS. F. BRYANT.		
R. STIPE.		M. A. MACPHERSON.

THE SASKATCHEWAN NATURAL RESOURCES ACT, No. 2

21-22 GEORGE V, CHAPTER 51

An Act to amend The Saskatchewan Natural Resources Act

[Assented to 3rd August, 1931.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: 1930, c. 41.

1. This Act may be cited as *The Saskatchewan Natural Resources Act, No. 2*, and *The Saskatchewan Natural Resources Act*, chapter forty-one of the Statutes of 1930 (first session), and this Act may be cited together as *The Saskatchewan Natural Resources Acts*. Short title.

2. The agreement set out in the schedule hereto is hereby confirmed and shall take effect according to its terms. Agreement confirmed.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this 7th day of August, 1930

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN, represented herein by the Honourable James Thomas Milton Anderson, Premier of Saskatchewan,

Of the second part.

WHEREAS by paragraph 26 of the agreement made between the parties hereto on the 20th day of March, 1930, it was agreed that the provisions of the said agreement might be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province,

AND WHEREAS it was further provided by certain clauses of the said agreement, more particularly paragraphs 1, 6, 8, 9, 19, 21, 22 and 25, that the relations of the parties thereto should be altered as in the said agreement specified from and after the date of the coming into force thereof, and the date upon which it was then contemplated that it should come into force, as defined by paragraph 28, has now been ascertained as being the 1st day of August, 1930;

AND WHEREAS the Government of the Province has requested that the presently existing powers and rights of each of the parties should continue without alteration until the 1st day of October, 1930, and the parties hereto have agreed accordingly:

NOW THEREFORE This Agreement Witnesseth that:

1. Notwithstanding anything in the said agreement contained, any expression therein contained which defines a date by reference to which the powers or rights of either of the parties are to be altered shall be read as referring to the 1st day of October, 1930, instead of to the 1st day of August in that year.

2. The Government of Canada will recommend to Parliament and the Government of the Province of Saskatchewan will recommend to the Legislature of the said Province such legislation as may be necessary to give effect to this agreement.

IN WITNESS WHEREOF the Honourable Charles Stewart, Minister of the Interior, has hereunto set his hand on behalf of the Dominion of Canada, and the Honourable James Thomas Milton Anderson, Premier of Saskatchewan, has hereunto set his hand on behalf of the said Province.

Signed on behalf of the Government of
Canada by the Honourable Charles
Stewart, Minister of the Interior,
in the presence of:
W. J. F. PRATT.

CHAS. STEWART.

Signed on behalf of the Province of
Saskatchewan by the Honourable
James Thomas Milton Anderson,
Premier of the said Province,
in the presence of:
W. W. CORY.

J. T. M. ANDERSON.

THE SASKATCHEWAN NATURAL RESOURCES ACT, No. 3

11 GEORGE VI, CHAPTER 45

An Act to vary the Saskatchewan Natural Resources Agreement

[Assented to 27th June, 1947.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada enacts as follows: 1930, c. 41;
1931, c. 51.

1. This Act may be cited as *The Saskatchewan Natural Resources Act, No. 3*. Short title.

2. The Agreement set out in the Schedule to this Act is hereby confirmed and shall take effect according to its terms. Agreement confirmed.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this 6th day of December, 1946

BETWEEN:

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable James Allison Glen, Minister of Mines and Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN, represented herein by the Honourable Joseph Lee Phelps, Minister of Natural Resources and Industrial Development,

Of the second part.

WHEREAS the Agreement entered into between the parties hereto on the twentieth day of March, A.D. 1930 (hereinafter referred to as the Natural Resources Transfer Agreement), was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930", being chapter twenty-six of the Imperial Statutes, 20-21 George V;

AND WHEREAS by paragraph 26 of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS the said Natural Resources Transfer Agreement came into force on the first day of October, A.D. 1930, in virtue of a further Agreement between the parties thereto, dated the seventh day of August, A.D. 1930, which was duly confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS it was provided by paragraph 20 of the said Natural Resources Transfer Agreement as follows: "The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be specified under the laws thereof."

AND WHEREAS it has been agreed between Canada and the Province of Saskatchewan that certain public shooting grounds and bird sanctuaries which were established at the time of the making of the said National Resources Transfer Agreement and since maintained by the Province should be discontinued and that authority should also be given under certain conditions to discontinue any public shooting grounds and bird sanctuaries established pursuant to the said Agreement;

Now THEREFORE this agreement witnesseth as follows:

1. The said Natural Resources Transfer Agreement is hereby amended by adding after the above mentioned paragraph 20 the following new paragraph:

"20A. The Province may discontinue any bird sanctuary or public shooting ground which was transferred to the Province by virtue of this Agreement or which has since been established by the Province or which may hereafter be established by the Province pursuant to this Agreement in any case in which an agreement is entered into between the Minister of Mines and Resources of Canada and the Minister of Natural Resources and Industrial Development of Saskatchewan approved by the Governor in Council and the Lieutenant Governor in Council respectively, providing for the discontinuance of any such bird sanctuary or public shooting ground."

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Saskatchewan, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In witness whereof the Honourable James Allison Glen, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada and the Honourable Joseph Lee Phelps, Minister of Natural Resources and Industrial Development, has hereunto set his hand on behalf of the Province of Saskatchewan.

Signed on behalf of the Government of
Canada by the Honourable James
Allison Glen, Minister of Mines and
Resources, in the presence of

"M. I. McEWEN."

"J. ALLISON GLEN."

Signed on behalf of the Government of
Saskatchewan by the Honourable
Joseph Lee Phelps, Minister of
Natural Resources and Industrial
Development, in the presence of

"E. L. PAYNTER."

"JOSEPH LEE PHELPS."

Note respecting The Saskatchewan Natural Resources.

The Saskatchewan Natural Resources Act, No. 4, chapter 69 of the Statutes of 1948 amended the Natural Resources Transfer Agreement contained in the Schedule to The Saskatchewan Natural Resources Act of 1930 by adding to paragraph 7 of the Agreement (p. 410) the following words.

"School lands may be sold to veterans qualified to participate in the benefits of the *Veterans Land Act, 1942*, and amendments thereto, under and subject to terms and conditions to be prescribed by regulations made by the Lieutenant-Governor in Council."

THE SASKATCHEWAN NATURAL RESOURCES ACT, No. 4⁽¹⁾

11-12 GEORGE VI, CHAPTER 69

An Act to amend The Saskatchewan Natural Resources Act

[Assented to 30th June, 1948.]

1930, c. 41;
1931, c. 51;
1947, c. 45.

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Saskatchewan Natural Resources Act No. 4*.

Agreement confirmed.

2. The Agreement set out in the Schedule is hereby confirmed and shall take effect according to its terms.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this 25th day of May, 1948

BETWEEN

THE GOVERNMENT OF CANADA, represented herein by the Honourable James A. MacKinnon, Acting Minister of Mines and Resources,

Of the first part,

AND

THE GOVERNMENT OF SASKATCHEWAN, represented herein by the Honourable Isidore Charles Nollet, Minister of Agriculture,

Of the second part.

WHEREAS the Agreement entered into between the parties hereto on the twentieth day of March, A.D. 1930 (hereinafter referred to as the Natural Resources Transfer Agreement), was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act

(1) By Agreement dated the 20th day of March, 1930, the Government of Canada transferred to the Government of Saskatchewan certain natural resources, including school lands. Paragraph 7 of the said Agreement provided that school lands so transferred to the province should be administered in accordance with the provisions of sections 37 to 40 of the *Dominion Lands Act*. Section 38 of the *Dominion Lands Act* required that all sales of school lands should be by public auction.

The Province of Saskatchewan desired to have the said paragraph 7 of the Agreement of the 20th day of March, 1930, amended to enable the Government of Saskatchewan to sell school lands to veterans without the restriction imposed by section 38 of the *Dominion Lands Act*.

The necessary amendment to paragraph 7 was embodied in an agreement between the Government of Canada and the Government of Saskatchewan which was approved by Order in Council P.C. 2308, dated the 28th May, 1948, and which appeared as a schedule to the Act. This agreement was subsequently confirmed by the Legislature of Saskatchewan.

of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled *The British North America Act, 1930*, being chapter twenty-six of the Imperial Statutes, 20-21 George V;

AND WHEREAS by paragraph 26 of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS the said Natural Resources Transfer Agreement came into force on the first day of October, A.D. 1930, in virtue of a further Agreement between the parties thereto, dated the seventh day of August, A.D. 1930, which was duly confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS it was provided by paragraph 7 of the said Natural Resources Transfer Agreement as follows:

"The school lands fund to be transferred to the Province as aforesaid, and such of the school lands specified in section thirty-seven of the *Dominion Lands Act*, being chapter one hundred and thirteen of the Revised Statutes of Canada, 1927, as pass to the administration of the Province, under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, mutatis mutandis, with the provisions of sections thirty-seven to forty of the *Dominion Lands Act*, for the support of schools organized and carried on therein in accordance with the law of the Province."

AND WHEREAS it has been agreed between Canada and the Province of Saskatchewan that the said paragraph 7 be amended as hereinafter set forth.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH as follows:

1. The said Natural Resources Transfer Agreement is hereby amended by adding to the above mentioned paragraph 7 the following words:

"School lands may be sold to veterans qualified to participate in the benefits of the *Veterans Land Act, 1942*, and amendments thereto, under and subject to terms and conditions to be prescribed by regulations made by the Lieutenant Governor in Council."

2. This agreement is made subject to its being confirmed by the Parliament of Canada and by the Legislature of the Province of Saskatchewan and shall take effect on the first day of the calendar month beginning next after its confirmation, as aforesaid, whichever confirmation, that of the Parliament of Canada or that of the Legislature of the Province shall be later in date.

IN WITNESS WHEREOF the Honourable J. A. MacKinnon, Acting Minister of Mines and Resources, has hereunto set his hand on behalf of the Government of Canada; and the Honourable Isidore Charles Nollet, Minister of Agriculture, has hereunto set his hand on behalf of the Province of Saskatchewan.

Signed on behalf of the Government of Canada by the Honourable the Act- ing Minister of Mines and Resources	}	Jas. A. MacKinnon
In the presence of W. C. Bethune		

Signed on behalf of the Government of Saskatchewan by the Honourable Isidore Charles Nollet, Minister of Agriculture	}	I. C. Nollet
In the presence of E. E. Zora		

THE SASKATCHEWAN NATURAL
RESOURCES TRANSFER
(AMENDMENT) ACT, 1951

15 GEORGE VI, CHAPTER 60

**An Act to vary the Saskatchewan Natural Resources
Agreement**

[Assented to 30th June, 1951.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Saskatchewan Natural Resources Transfer (Amendment) Act, 1951*.

Agreement confirmed.

2. The Agreement set out in the Schedule to this Act is hereby confirmed and shall take effect according to its terms.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this 29th day of March, 1951

BETWEEN

THE GOVERNMENT OF CANADA, represented herein by the Honourable Douglas Charles Abbott, Minister of Finance,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN represented herein by the Honourable Clarence Melvin Fines, Provincial Treasurer,

Of the second part.

WHEREAS the Agreement entered into between the parties hereto on the 20th day of March A.D. 1930 (hereinafter referred to as the Natural Resources Transfer Agreement), was duly approved by the Parliament of Canada and the Legislature of the Province and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930" being chapter twenty-six of the Imperial Statutes, 20-21 George V;

AND WHEREAS by paragraph twenty-six of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS paragraphs six and seven of the Natural Resources Transfer Agreement provide as follows:

"6. Upon the coming into force of this Agreement, Canada will transfer to the Province the money or securities constituting that portion of the School Lands Fund, created under sections twenty-two and twenty-three of the Act to amend and consolidate the several Acts respecting Public Lands of the Dominion, being chapter thirty-one of forty-two Victoria, and subsequent statutes, which is derived from the disposition of any school lands within the Province or within that part of the Northwest Territories now included within the boundaries thereof."

"7. The School Lands Fund to be transferred to the Province as aforesaid, and such of the school lands specified in section thirty-seven of the Dominion Lands Act, being chapter one hundred and thirteen of the Revised Statutes of Canada, 1927, as pass to the administration of the Province under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the Dominion Lands Act, for the support of schools organized and carried on therein in accordance with the law of the Province."

AND WHEREAS the effect of these provisions is that money obtained from the sale of the school lands specified therein and the said School Lands Fund may be invested only in securities of Canada;

AND WHEREAS it has been agreed that provision should be made for the investment of such money in other securities as hereinafter provided:

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. Paragraph seven of the Natural Resources Transfer Agreement is amended by adding thereto the following provision:

"The Province will, notwithstanding anything in this Agreement, invest money to which this paragraph applies in securities of Canada, or of a Province, or of a municipal corporation, school district or school unit in the Province of Saskatchewan, or in securities guaranteed by Canada or a Province, to form a school fund, and will apply the interest arising therefrom, after deducting the cost of management, for the support of schools organized and carried on in accordance with the law of the Province."

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Saskatchewan, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

IN WITNESS WHEREOF, the Honourable Douglas Charles Abbott, Minister of Finance, has hereunto set his hand on behalf of Canada; and the Honourable Clarence Melvin Fines, Provincial Treasurer, has hereunto set his hand on behalf of the Province of Saskatchewan.

Signed on behalf of the Government of Canada by the Honourable Douglas Charles Abbott, Minister of Finance, in the presence of	}	(Sgd.) D. C. ABBOTT.
(Sgd.) W. C. CLARK.		

Signed on behalf of the Government of Saskatchewan by the Honourable Clarence Melvin Fines, Provincial Treasurer, in the presence of	}	(Sgd.) C. M. FINES.
(Sgd.) THOS. H. McLEOD.		

THE REFUNDS (NATURAL RESOURCES) ACT

22-23 GEORGE V, CHAPTER 35

An Act to authorize the Refund of Moneys received in connection with the administration of the Natural Resources

[Assented to 13th May, 1932.]

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as *The Refunds (Natural Resources) Act*.

Authority
to make
refunds.

2. The Governor in Council upon the recommendation of the Minister of the Interior may authorize the payment out of the Consolidated Revenue Fund of any sums of money representing dues, fees, guarantee deposits, credit balances, moneys paid for settlers' improvements, moneys held in trust, and other sums of money received in connection with the administration of the natural resources prior to the transfer thereof to the Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta, respectively, which His Majesty is under any legal obligation, or, in the opinion of the Minister, concurred in by the Governor in Council, is under any equitable obligation, to refund to any person in connection with any transactions relating to the said natural resources.

Statement
to be laid
before
Parliament.

3. Within fifteen days after the commencement of each session of Parliament, the Minister of the Interior shall cause to be laid before both Houses of Parliament a statement of all moneys refunded under the authority of this Act since the last preceding session of Parliament, showing the name of each person to whom any sum of money has been so refunded, the amount of money refunded, the date of each such refund and the reason therefor.

THE NATURAL RESOURCES TRANSFER (AMENDMENT) ACT, 1938

2 GEORGE VI, CHAPTER 36

**An Act to amend The Manitoba Natural Resources Act, The
Alberta Natural Resources Acts, and The Saskatchewan
Natural Resources Acts**

[Assented to 24th June, 1938.]

HIS MAJESTY, by and with the advice and consent of the
Senate and House of Commons of Canada, enacts as follows:

1930, c. 29;
1930, c. 3;
1931, c. 15;
1930, c. 41;
1931, c. 51.

1. This Act may be cited as *The Natural Resources Transfer
(Amendment) Act, 1938*. Short title.

2. The Agreements set out in the Schedule to this Act are hereby confirmed and shall have and take effect according to their respective terms. Agreements confirmed.

3. This Act shall be read and construed as one with the following Acts, respectively: Construc-
tion.

(a) *The Manitoba Natural Resources Act*, chapter twenty-nine of the Statutes of 1930 (first session);

(b) *The Alberta Natural Resources Acts*, chapter three of the Statutes of 1930 (first session) and chapter fifteen of the Statutes of 1931;

(c) *The Saskatchewan Natural Resources Acts*, chapter forty-one of the Statutes of 1930 (first session) and chapter fifty-one of the Statutes of 1931.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this 5th day of March, A.D. 1938

BETWEEN:

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein
by the Honourable Thomas Alexander Crerar, Minister of Mines
and Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF MANITOBA, represented herein
by the Honourable John Stewart McDiarmid, Minister of Mines
and Natural Resources,

Of the second part.

WHEREAS the Agreement entered into between the parties hereto on the 14th day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement) was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "*The British North America Act, 1930*," assented to on the 10th July, 1930, being chapter twenty-six of the Imperial Statutes, 20-21 George V:

AND WHEREAS by paragraph twenty-four of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province:

AND WHEREAS the said Natural Resources Transfer Agreement came into force, pursuant to the provisions thereof, on the 15th day of July, 1930:

AND WHEREAS the said Natural Resources Transfer Agreement provided for the transfer to the Province of the interest of the Crown in all Crown lands, mines and minerals (precious and base) and royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals or royalties upon and subject to the terms and conditions therein set forth:

AND WHEREAS doubts have been entertained on the part of the Province whether the interest of the Crown in the waters and water-powers within the Province under the *Irrigation Act*, and the *Dominion Water Power Act* was transferred to and vested in the Province under the terms of the Natural Resources Transfer Agreement, the same not having been specifically mentioned in the description of the natural resources transferred to the Province as hereinbefore recited, and for the quieting of such doubts it is expedient that the transfer to the Province of the interest of the Crown in the waters and water-powers aforementioned should be confirmed:

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. Paragraph 1 of the said Natural Resources Transfer Agreement is amended by inserting after the word "province" in the sixth line thereof the words "and the interest of the Crown in the waters and water-powers within the Province under the *Irrigation Act*, being chapter sixty-one of the Revised Statutes of Canada, 1906, as amended by chapter thirty-eight, 7-8 Edward VII, and chapter thirty-four, 9-10 Edward VII, and under the *Dominion Water Power Act*"; and after the word "royalties" in the seventh line thereof the words "or for interests or rights in or to the use of such waters or water-powers"; and the amendments to said paragraph 1 hereinbefore provided shall have effect, and said paragraph 1 shall be read and construed as if it contained the said amendments, as from the coming into force of the said Natural Resources Transfer Agreement, subject nevertheless to the other provisions of the said Natural Resources Transfer Agreement and to the exception of all such interests in or rights to the use of the waters and water-powers within the Province as continue, in virtue of such provisions, to belong to or to be administrable by the Crown in the right of Canada, and of all sums due or payable for such interests or rights.

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Manitoba, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

IN WITNESS WHEREOF the Honourable Thomas Alexander Crerar, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable John Stewart McDiarmid, Minister of Mines and Natural Resources, has hereunto set his hand on behalf of the Province of Manitoba.

Signed on behalf of the Government of
Canada by the Honourable Thomas
Alexander Crerar, Minister of Mines
and Resources, }
(Sgd.) T. A. CRERAR.
in the presence of:
(Sgd.) W. C. BETHUNE.

Signed on behalf of the Government of
Manitoba by the Honourable John
Stewart McDiarmid, Minister of
Mines and Natural Resources, }
(Sgd.) J. S. McDIARMID.
in the presence of:
(Sgd.) MARY A. ZAKUS.

MEMORANDUM OF AGREEMENT

Made this 5th day of March, A.D. 1938

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein
by the Honourable Thomas Alexander Crerar, Minister of Mines
and Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein
by the Honourable David Bertrum Mullen, Minister of Agriculture
and in charge of Water Resources, and the Honourable Nathan
Eldon Tanner, Minister of Lands and Mines.

Of the second part.

WHEREAS the Agreement entered into between the parties hereto on
the 14th day of December, A.D. 1929 (hereinafter referred to as the
Natural Resources Transfer Agreement) was duly approved by the Parlia-
ment of Canada and the Legislature of the Province, and upon an address
to His Majesty from the Senate and House of Commons of Canada, was
confirmed and declared to have the force of law by an Act of the
Parliament of the United Kingdom of Great Britain and Northern Ireland
entitled "The British North America Act, 1930," being chapter twenty-six
of the Imperial Statutes, 20-21 George V:

AND WHEREAS by paragraph 24 of the said Natural Resources
Transfer Agreement it was agreed that the provisions of the said Agree-
ment might be varied by an Agreement confirmed by concurrent statutes
of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS the said Natural Resources Transfer Agreement came
into force, in virtue of a further Agreement between the parties hereto,
dated the 29th day of July A.D. 1930, which was duly confirmed by
concurrent statutes of the Parliament of Canada and the Legislature of
the Province, on the 1st day of October, A.D. 1930;

AND WHEREAS the said Natural Resources Transfer Agreement provided for the transfer to the Province of the interest of the Crown in all Crown lands, mines and minerals (precious and base) and the royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals and royalties upon and subject to the terms and conditions therein set forth:

AND WHEREAS doubts have been entertained on the part of the Province whether the interest of the Crown in the waters and water-powers within the Province under the *North-West Irrigation Act, 1898*, and the *Dominion Water Power Act*, was transferred to and vested in the Province under the terms of the Natural Resources Transfer Agreement, the same not having been specifically mentioned in the description of the natural resources transferred to the Province as hereinbefore recited, and for the quieting of such doubts, it is expedient that the transfer to the Province of the interest of the Crown in the waters and water-powers aforementioned should be confirmed;

AND WHEREAS by paragraph 2 of the said Natural Resources Transfer Agreement the Province agreed that it would carry out, in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals and every other arrangement whereby any person had become entitled to any interest therein as against the Crown, and further agreed not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto, other than Canada, or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who might be the parties thereto;

AND WHEREAS it has been agreed between Canada and the said Province that the terms of said paragraph 2 should be modified as herein set out:

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. Paragraph 1 of the said Natural Resources Transfer Agreement is amended by inserting after the word "province" in the sixth line thereof the words "and the interest of the Crown in the waters and water-powers within the Province under the *North-West Irrigation Act, 1898*, and the *Dominion Water Power Act*"; and after the word "royalties" in the seventh line thereof the words "or for interests or rights in or to the use of such waters or water-powers"; and the amendments to said paragraph 1 hereinbefore provided shall have effect, and said paragraph 1 shall be read and construed as if it contained the said amendments, as from the coming into force of the said Natural Resources Transfer Agreement, subject nevertheless to the other provisions of the said Natural Resources Transfer Agreement and to the exception of all such interests in or rights to the use of the waters and water powers within the Province as continue in virtue of such provisions, to belong to or to be administrable by the Crown in the right of Canada, and of all sums due or payable for such interests or rights.

2. Paragraph 2 of the said Natural Resources Transfer Agreement is amended by adding at the end thereof the following words:

"or is legislation relating to the conservation of oil resources or gas resources or both by the control or regulation of the production of oil or gas or both, whether by restriction or prohibition and whether generally or with respect to any specified area or any specified well or wells or by repressuring of any oil field, gas field or oil-gas field, and, incidentally thereto, providing for the compulsory purchase of any well or wells."

3. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

IN WITNESS WHEREOF the Honourable Thomas Alexander Crerar, Minister of Mines and Resources has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable David Bertrum Mullen, Minister of Agriculture and in charge of Water Resources, and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines, have hereunto set their hands on behalf of the Province of Alberta.

Signed on behalf of the Government of Canada by the Honourable Thomas Alexander Crerar, Minister of Mines and Resources, in the presence of: (Sgd.) W. C. BETHUNE.	}	(Sgd.) T. A. CRERAR.
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Signed on behalf of the Government of Alberta by the Honourable David Bertrum Mullen, Minister of Agricul- ture and in charge of Water Re- sources, and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines, in the presence of: (Sgd.) ERNEST C. MANNING.	}	(Sgd.) D. B. MULLEN. (Sgd.) N. E. TANNER.
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MEMORANDUM OF AGREEMENT

Made this 5th day of March, A.D. 1938

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented by the Honourable Thomas Alexander Crerar, Minister of Mines and Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN, represented herein by the Honourable William Franklin Kerr, Minister of Natural Resources,

Of the second part.

WHEREAS the Agreement entered into between the parties hereto on the 20th day of March, A.D. 1930 (hereinafter referred to as the Natural Resources Transfer Agreement) was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930," being chapter twenty-six of the Imperial Statutes, 20-21 George V;

AND WHEREAS by paragraph twenty-six of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province:

AND WHEREAS the said Natural Resources Transfer Agreement came into force, in virtue of a further Agreement between the parties hereto, dated the 7th day of August, A.D. 1930, which was duly confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province, on the 1st day of October, A.D. 1930;

AND WHEREAS the said Natural Resources Transfer Agreement provided for the transfer to the Province of the interest of the Crown in all Crown lands, mines, minerals (precious and base), and royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals or royalties upon and subject to the terms and conditions therein set forth;

AND WHEREAS doubts have been entertained on the part of the Province whether the interest of the Crown in the waters and water-powers within the Province under the *North-West Irrigation Act, 1898*, and the *Dominion Water Power Act*, was transferred to and vested in the Province under the terms of the Natural Resources Transfer Agreement, the same not having been specifically mentioned in the description of the natural resources transferred to the Province as hereinbefore recited, and for the quieting of such doubts it is expedient that the transfer to the Province of the interest of the Crown in the waters and water-powers aforementioned should be confirmed.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. Clause 1 of the said Natural Resources Transfer Agreement is amended by inserting after the word "Province" in the sixth line thereof the words "and the interest of the Crown in the waters and water-powers within the Province under the *North-West Irrigation Act, 1898*, and the *Dominion Water Power Act*"; and after the word "royalties" in the seventh line thereof the words "or for interests or rights in or to the use of such waters or water-powers"; and the amendments to said clause 1 hereinbefore provided shall have effect, and said clause 1 shall be read and construed as if it contained the said amendments, as from the coming into force of the said Natural Resources Transfer Agreement, subject nevertheless to the other provisions of the said Natural Resources Transfer Agreement and to the exception of all such interests in or rights to the use of the waters and water-powers within the Province as continue in virtue of such provisions, to belong to or to be administrable by the Crown in the right of Canada, and of all sums due or payable for such interests or rights.

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Saskatchewan, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

IN WITNESS WHEREOF the Honourable Thomas Alexander Crerar, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable William Franklin Kerr,

Minister of Natural Resources, has hereunto set his hand on behalf of the Province of Saskatchewan.

Signed on behalf of the Government of
Canada by the Honourable Thomas
Alexander Crerar, Minister of Mines
and Resources, } (Sgd.) T. A. CRERAR.
in the presence of:
(Sgd.) W. C. BETHUNE.

Signed on behalf of the Government of
Saskatchewan by the Honourable
William Franklin Kerr, Minister of
Natural Resources, } (Sgd.) W. F. KERR.
in the presence of:
(Sgd.) GEO. SPENCE.

THE NATURAL RESOURCES TRANSFER (SCHOOL LANDS) AMENDMENT ACT, 1961⁽¹⁾

9-10 ELIZABETH II, 1960-61, CHAPTER 62

An Act to amend certain Agreements Respecting the Administration and Control of Natural Resources in the Provinces of Manitoba, Alberta and Saskatchewan

[Assented to 29th September, 1961.]

HER MAJESTY, by and with the advice and consent of the
Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as the *Natural Resources Transfer
(School Lands) Amendment Act, 1961*.

Agreements
confirmed.

2. The Memorandum of Agreement between the Govern-
ment of Canada and the Government of the Province of
Manitoba made on the thirteenth day of July, 1961, the
Memorandum of Agreement between the Government of Canada
and the Province of Alberta made on the thirteenth day of
July, 1961, and the Memorandum of Agreement between the
Government of Canada and the Government of the Province
of Saskatchewan made on the fourteenth day of July, 1961,
set forth in Schedules A, B and C respectively, are hereby
confirmed and declared to have the force of law in Canada.

(1) The purpose of this Act was to confirm agreements entered into
between the Government of Canada and the Governments of the Provinces
of Manitoba, Alberta and Saskatchewan whereby certain agreements
respecting the administration and control of natural resources in those
Provinces were amended in order to vest those Provinces with full power to
administer and dispose of the school lands and the school lands funds
referred to in the said agreements.

On speaking to the resolution which preceded the introduction of the
legislation of 1961 respecting the administration of western school lands and
school land funds, Mr. Richard A. Bell, Parliamentary Secretary to the
Minister of Finance gave the following historical background:

The purpose of the bill to be founded upon this resolution is to secure
parliamentary approval of agreements which have been entered into between
the government of Canada and the governments of the provinces of Manitoba,
Saskatchewan and Alberta. These agreements were laid on the table of the
house on the 15th of this month by the Minister without Portfolio
(Mr. Halpenny) and they appear as schedules to the bill. If approved by
parliament and by the legislatures of the respective provinces, these agree-
ments will have the effect of terminating the legislative control of the

Parliament of Canada over the school lands and school lands funds of the three prairie provinces and placing the administration and disposal of those lands and funds within the sole competence of the respective legislatures of those provinces.

The committee may wish to have recalled some of the historical background of the school lands and school lands funds. Under the Dominion Lands Act of 1872, the Parliament of Canada set aside two sections of land in each township in Manitoba and the then Northwest Territories as an endowment for education and in the consolidated Dominion Lands Act of 1879 set forth the manner in which this endowment was to be administered by the department of the interior. All sales were to be made by public auction after due advertisement, and at an upset price based upon the fair value of other unoccupied lands in the township. The terms of sale, which have subsequently been changed from time to time, were fixed in 1879 at one-fifth in cash and the remainder in nine annual instalments with interest at six per cent. The principal arising from the sales was to be invested in dominion securities and the interest arising therefrom as well as the annual revenue from leases, hay permits, etc., on school lands were, after deducting the cost of management of the lands, to be paid annually to the governments of the province or territory within which such lands were situated. The moneys so paid were to be used by the province or territory to support public schools in such manner as the province or territory deemed expedient. In conformity with the above requirements, the government of Canada from 1883, the date of the first sale of school lands, until 1930, when the school lands and school lands funds were transferred to the jurisdiction of the provinces in the natural resources settlement of that year, administered the school lands and school lands funds.

In the agreements which constituted the 1930 natural resources settlement, the three provinces undertook to administer the school lands and the school lands fund they acquired in the settlement, according to the provisions of sections 37 to 40 of the Dominion Lands Act, being chapter 113 of the Revised Statutes of Canada, 1927. This provision of the natural resources agreements meant that while the provinces had assumed the administration of their school lands and associated funds, the principles on which those lands and funds were to be administered were not to change. The provinces were required to invest the principal from the sale of school lands in a school lands fund and invest the moneys of the fund in securities of Canada.

There have over the years been various representations from one or more of the prairie provinces to have the provisions of the natural resources transfer agreements of 1930 dealing with school lands and the school lands funds amended. As the result of such representations the natural resources transfer agreement with Saskatchewan was amended in 1948 and in 1951 the transfer agreements with each of the three provinces was amended. The 1948 amendment allowed Saskatchewan to sell school lands to veterans under provisions of the Veterans' Land Act without conforming to the requirement that school lands must only be sold at public auction. The 1951 amendment gave the provinces more latitude as to the securities in which the school lands funds might be invested. The definition of acceptable securities was broadened to include, in addition to securities of Canada, securities of any province, or securities of a municipal corporation or school districts within the province together with securities guaranteed by Canada or a province.

There have been since that time various representations from the prairie provinces that all federal legislative control over their school lands and school lands funds should be removed and the legislatures of the provinces given sole jurisdiction as to the manner of administration or disposal of the lands and the funds. It has been argued that the revenues provided from the school lands are now small in relation to total expenditures on education so that it can scarcely be contended that the maintenance of the funds assures adequate revenues for education.

Natural Resources Transfer (School Lands) Act

I have in my hand a brief table relating to school lands funds setting forth the size of funds, expressed in thousands of dollars, the unsold lands, expressed in millions of acres, and the revenues from school lands and school lands funds expressed in thousands of dollars.

SCHOOL LANDS FUNDS

Size of Funds

(in thousands of dollars)

	Manitoba	Saskatchewan	Alberta
1930-31	\$5,920	\$17,809	\$ 9,565
1945-46	6,146	23,696	11,836
1959-60	7,412	35,743	16,937

Unsold Lands

(in millions of acres)

	Manitoba	Saskatchewan	Alberta
1930-31	7.6	5.9	6.6
1959-60	7.4	2.3	6.2

Revenues from School Lands and School Lands Funds

(in thousands of dollars)

	Manitoba	Saskatchewan	Alberta
1945-46	\$293	\$1,369	\$ 740
1950-60	\$600 (est.)	\$,2214	\$5,660 ⁽¹⁾

⁽¹⁾ Includes

Interest on investments			\$ 366,468.10
Fees and rentals	\$2,126,506.60		
Royalties	1,980,750.93		
Sale of Crown reserve leases .	1,181,349.17		
Miscellaneous	5,412.04		\$5,294,018.74
			<hr/>
			\$5,660,486.84

The situation today is this. The revenues from school lands as a percentage of provincial expenditure on education declined in Manitoba from 9.5 per cent in 1945-46 to 3.5 per cent in 1957-58. In Saskatchewan, the revenues from school lands were 21.9 per cent of educational expenditures in 1945-46 and 14.2 per cent in 1958-59. In Alberta, the school lands revenues constituted 12.9 per cent of educational expenditures in 1945-46 and 8.8 per cent in 1958-59.

The provinces have also contended that the retention of federal control over the use of the school lands and school lands funds in the three prairie provinces infringes upon their autonomy and that the existence of this legislative control involves unnecessary administrative work and impairs the financial flexibility of the provinces concerned. In the belief that the arguments advanced by the provinces were reasonable and in the desire to co-operate with the prairie provinces in this matter, the Prime Minister at the dominion-provincial conference of February 1961, suggested that the governments of Canada, Manitoba, Saskatchewan and Alberta should enter into an agreement to confer on those provinces complete authority over their school lands and their school lands funds. The provinces were agreeable to such an arrangement and agreements to this effect have been entered into by the governments concerned. The house will be asked by the bill to be founded upon this resolution to approve on behalf of Canada the agreements entered into with the provinces of Manitoba, Saskatchewan and Alberta. The agreements as I said will become effective when they have also been approved by the legislatures of the provinces concerned.

SCHEDULE A

MEMORANDUM OF AGREEMENT

Made this thirteenth day of July, 1961

BETWEEN

THE GOVERNMENT OF CANADA, represented herein by the Honourable Walter Dinsdale, Minister of Northern Affairs and National Resources,

AND

THE GOVERNMENT OF THE PROVINCE OF MANITOBA, represented herein by the Honourable Stewart E. McLean, Minister of Education.

WHEREAS paragraph 7 of a Memorandum of Agreement between the Government of Canada and the Government of the Province of Manitoba made on the 14th day of December, 1929 (which Memorandum of Agreement is hereinafter referred to as the "original Agreement"), duly approved by the Parliament of Canada and the Legislature of the Province and, upon an address by the Senate and House of Commons of Canada, confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom entitled the British North America Act, 1930, was amended by a Memorandum of Agreement between the Government of Canada and the Government of the Province of Manitoba made the 11th day of June, 1951, duly approved by the Parliament of Canada and the Legislature of the Province;

AND WHEREAS the said paragraph 7, as amended, provides:

"7. The School Lands Fund to be transferred to the Province as aforesaid, and such of the school lands specified in section thirty-seven of the Dominion Lands Act, being chapter one hundred and thirteen of the Revised Statutes of Canada, 1927, as pass to the administration of the Province under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the Dominion Lands Act, for the support of schools organized and carried on therein in accordance with the law of the Province. The Province will, notwithstanding anything in this Agreement, invest money to which this paragraph applies in securities of Canada, or of a Province, or of a municipal corporation or school district in the Province of Manitoba, or in securities guaranteed by Canada or a Province, to form a school fund, and will apply the interest arising therefrom, after deducting the cost of management, for the support of schools organized and carried on in accordance with the law of the Province."

AND WHEREAS in and by paragraph 24 of the original Agreement it is provided that the foregoing provisions of the said Agreement may be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS it is considered desirable to vest the Province with full control of the School Lands Fund and the school lands referred to in the said paragraph 7 as amended.

NOW THEREFORE this Agreement witnesseth as follows:

1. Paragraph 7 of the original Agreement, as amended, is deleted and the following substituted therefor:

"7. The School Lands Fund transferred to the Province under the terms hereof, and such of the school lands specified in section 37 of the Dominion Lands Act, chapter 113 of the Revised Statutes of Canada, 1927,

as passed to the administration of the Province under the terms hereof, shall be administered or disposed of in such manner as the Province may determine.”

2. This Agreement shall take effect upon being duly approved by the Parliament of Canada and the Legislature of the Province.

IN WITNESS WHEREOF the Honourable Walter Dinsdale, Minister of Northern Affairs and National Resources, on behalf of the Government of Canada and the Honourable Stewart E. McLean, Minister of Education, on behalf of the Government of the Province of Manitoba, have hereunto set their hands:

Signed on behalf of the Government of Canada by the Honourable Walter Dinsdale, Minister of Northern Affairs and National Resources, in the presence of	}	(Sgd.) WALT. DINSDALE
(Sgd.) A. B. MILLER		
Signed on behalf of the Government of the Province of Manitoba by the Honourable Stewart E. McLean, Minister of Education. in the presence of	}	(Sgd.) STEWART E. MCLEAN
(Sgd.) R. W. DALTON		

SCHEDULE B

MEMORANDUM OF AGREEMENT

Made this thirteenth day of July, 1961

BETWEEN

THE GOVERNMENT OF CANADA, represented herein by the Honourable Walter Dinsdale, Minister of Northern Affairs and National Resources,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable Norman Alfred Willmore, Minister of Lands and Forests.

WHEREAS paragraph 7 of a Memorandum of Agreement between the Government of Canada and the Government of the Province of Alberta made on the 14th day of December, 1929 (which Memorandum of Agreement is hereinafter referred to as the “original Agreement”), duly approved by the Parliament of Canada and the Legislature of the Province and, upon an address by the Senate and House of Commons of Canada, confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom entitled the British North America Act, 1930, was amended by a Memorandum of Agreement between the Government of Canada and the Government of the Province of Alberta made the 31st day of March, 1951, duly approved by the Parliament of Canada and the Legislature of the Province;

AND WHEREAS the said paragraph 7, as amended, provides:

"7. The School Lands Fund to be transferred to the Province as aforesaid, and such of the school lands specified in section thirty-seven of the Dominion Lands Act, being chapter one hundred and thirteen of the Revised Statutes of Canada, 1927, as pass to the administration of the Province under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the Dominion Lands Act, for the support of schools organized and carried on therein in accordance with the law of the Province. The Province will, notwithstanding anything in this Agreement, invest money to which this paragraph applies in securities of Canada, or of a Province, or of a municipal corporation, school district or school division in the Province of Alberta, or in securities guaranteed by Canada or a Province, to form a school fund, and will apply the interest arising therefrom, after deducting the cost of management, for the support of schools organized and carried on in accordance with the law of the Province."

AND WHEREAS in and by paragraph 24 of the original Agreement it is provided that the foregoing provisions of the said Agreement may be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS it is considered desirable to vest the Province with full control of the School Lands Fund and the school lands referred to in the said paragraph 7, as amended.

NOW THEREFORE this Agreement witnesseth as follows:

1. Paragraph 7 of the original Agreement, as amended, is deleted and the following substituted therefor:

"7. The School Lands Fund transferred to the Province under the terms hereof, and such of the school lands specified in section 37 of the Dominion Lands Act, chapter 113 of the Revised Statutes of Canada, 1927, as passed to the administration of the Province under the terms hereof, shall be administered or disposed of in such manner as the Province may determine."

2. This Agreement shall take effect upon being duly approved by the Parliament of Canada and the Legislature of the Province.

IN WITNESS WHEREOF the Honourable Walter Dinsdale, Minister of Northern Affairs and National Resources, on behalf of the Government of Canada and the Honourable Norman Alfred Willmore, Minister of Lands and Forests, on behalf of the Government of the Province of Alberta, have hereunto set their hands:

Signed on behalf of the Government of Canada by the Honourable Walter Dinsdale, Minister of Northern Affairs and National Resources, in the presence of	}	(Sgd.) WALT. DINSDALE
(Sgd.) A. B. MILLER		

Signed on behalf of the Government of the Province of Alberta by the Honourable Norman Alfred Willmore, Minister of Lands and Forests in the presence of	}	(Sgd.) NORMAN WILLMORE
(Sgd.) GRACE A. M. MATHESON		

SCHEDULE C

MEMORANDUM OF AGREEMENT

Made this fourteenth day of July, 1961

BETWEEN

THE GOVERNMENT OF CANADA, represented herein by the Honourable Walter Dinsdale, Minister of Northern Affairs and National Resources,

AND

THE GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN, represented herein by the Honourable Woodrow Stanley Lloyd, Provincial Treasurer.

WHEREAS paragraph 7 of a Memorandum of Agreement between the Government of Canada and the Government of the Province of Saskatchewan made on the 20th day of March, 1930 (which Memorandum of Agreement is hereinafter referred to as the "original Agreement"), duly approved by the Parliament of Canada and the Legislature of the Province and, upon an address by the Senate and House of Commons of Canada, confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom entitled the British North America Act, 1930, was amended by Memoranda of Agreement between the Government of Canada and the Government of the Province of Saskatchewan made the 25th day of May, 1948, and the 29th day of March, 1951, duly approved by the Parliament of Canada and the Legislature of the Province;

AND WHEREAS the said paragraph 7, as amended, provides:

"7. The School Lands Fund to be transferred to the Province as aforesaid, and such of the school lands specified in section thirty-seven of the Dominion Lands Act, being chapter one hundred and thirteen of the Revised Statutes of Canada, 1927, as pass to the administration of the Province under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the Dominion Lands Act, for the support of schools organized and carried on therein in accordance with the law of the Province. School lands may be sold to veterans qualified to participate in the benefits of the Veterans Land Act, 1942, and amendments thereto, under and subject to terms and conditions to be prescribed by regulations made by the Lieutenant-Governor in Council. The Province will, notwithstanding anything in this Agreement, invest money to which this paragraph applies in securities of Canada, or of a Province, or of a municipal corporation, school district or school unit in the Province of Saskatchewan, or in securities guaranteed by Canada or a Province, to form a school fund, and will apply the interest arising therefrom, after deducting the cost of management, for the support of schools organized and carried on in accordance with the law of the Province."

AND WHEREAS in and by paragraph 26 of the original Agreement it is provided that the foregoing provisions of the said Agreement may be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

AND WHEREAS it is considered desirable to vest the Province with full control of the School Lands Fund and the school lands referred to in the said paragraph 7, as amended.

NOW THEREFORE this Agreement witnesseth as follows:

1. Paragraph 7 of the original Agreement, as amended, is deleted and the following substituted therefor:

"7. The School Lands Fund transferred to the Province under the terms hereof, and such of the school lands specified in section 37 of the Dominion Lands Act, chapter 113 of the Revised Statutes of Canada, 1927, as passed to the administration of the Province under the terms hereof, shall be administered or disposed of in such manner as the Province may determine."

2. This Agreement shall take effect upon being duly approved by the Parliament of Canada and the Legislature of the Province.

IN WITNESS WHEREOF the Honourable Walter Dinsdale, Minister of Northern Affairs and National Resources, on behalf of the Government of Canada and the Honourable Woodrow Stanley Lloyd, Provincial Treasurer, on behalf of the Government of the Province of Saskatchewan, have hereunto set their hands:

Signed on behalf of the Government of Canada by the Honourable Walter Dinsdale, Minister of Northern Affairs and National Resources, in the presence of	}	(Sgd.) WALT. DINSDALE
(Sgd.) E. M. CHALKMAN		

Signed on behalf of the Government of the Province of Saskatchewan by the Honourable Woodrow Stanley Lloyd, Provincial Treasurer, in the presence of	}	(Sgd.) W. S. LLOYD
(Sgd.) LORNA P. STUHR		

MARRIAGE AND DIVORCE

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THE MARRIAGE AND DIVORCE ACT

R.S., 1952, CHAPTER 176

An Act respecting Marriage and Divorce⁽¹⁾

SHORT TITLE

1. This Act may be cited as the *Marriage and Divorce Act*. R.S., c. 127, s. 1. Short title.

MARRIAGE

2. A marriage is not invalid merely because the woman is a sister of a deceased wife of the man, or a daughter of a sister or brother of a deceased wife of the man. 1932, c. 10, s. 1. Certain marriages not invalid.

3. A marriage is not invalid merely because the man is a brother of a deceased husband of the woman or a son of a brother or sister of a deceased husband of the woman. 1932, c. 10, s. 1. Certain marriages not invalid.

DIVORCE

4. In any court having jurisdiction to grant divorce *a vinculo matrimonii* any wife may commence an action praying that her marriage may be dissolved on the ground that her husband has since the celebration thereof been guilty of adultery. R.S., c. 127, s. 4. Right of wife to divorce husband for adultery.

5. If the court is satisfied by the evidence that the case of the wife has been proved, and does not find that the wife has been in any manner accessory to or has connived at the adultery of her husband, or that she has condoned the adultery complained of, or that the action was commenced and is prosecuted in collusion with the husband or the woman with whom he is alleged to have committed adultery, then the court shall pronounce a decree declaring such marriage to be dissolved; but the Conditions upon which decree pronounced.

(1) By item 26 of section 91 of the B.N.A. Act, 1867, the legislative authority of the Parliament of Canada extends to "Marriage and Divorce". On the other hand, item 12 of section 92 of the same Act declares "The Solemnization of Marriage in the Province" to be a subject of exclusive provincial legislation. This Act was first enacted in 1925. It then appeared in the Revised Statutes of 1927 as chapter 127. Sections 2 and 3 were then amended in 1932 (chapter 10). Under the Act as it was up to the time of this amendment a man could legally marry either his deceased wife's sister or a daughter of his deceased wife's sister, but could not legally marry a daughter of his deceased wife's brother.

Similarly, a woman could legally marry either her deceased husband's brother or the son of her deceased husband's brother, but not a son of her deceased husband's sister.

court is not bound to pronounce such decree if it finds that the wife during the marriage has been guilty of adultery, or if the wife in the opinion of the court has been guilty of unreasonable delay in presenting or prosecuting such action or of cruelty towards the husband, or of having deserted or wilfully separated herself from the husband before the adultery complained of, and without reasonable excuse, or of such wilful neglect or misconduct as has conduced to the adultery. R.S., c. 127, s. 5.

Rights
preserved.

6. Nothing in sections 4 and 5 affects, restricts or takes away any right of any wife existing before the 27th day of June, 1925. R.S., c. 127, s. 6.

THE DIVORCE ACT (ONTARIO)

R.S., 1952, CHAPTER 85

**An Act to provide in the province of Ontario for the
dissolution and the annulment of Marriage⁽¹⁾**

SHORT TITLE

1. This Act may be cited as the *Divorce Act (Ontario)*. Short title.
1930, c. 14, s. 3.

2. The law of England as to the dissolution of marriage and as to the annulment of marriage, as that law existed on the 15th day of July, 1870, in so far as it can be made to apply in the Province of Ontario, and in so far as it has not been repealed, as to the Province, by any Act of the Parliament of the United Kingdom or by any Act of the Parliament of Canada or by this Act, and as altered, varied, modified or affected, as to the Province, by any such Act, is in force in the Province of Ontario. Part of law of England, on 15th July, 1870, made law of Ontario.
1930, c. 14, s. 1.

3. The Supreme Court of Ontario has jurisdiction for all purposes of this Act. 1930, c. 14, s. 2. Jurisdiction.

(1) This Act was enacted in 1930 (c. 14). It gave Ontario the power to establish divorce courts.

THE DIVORCE JURISDICTION ACT

R.S., 1952, CHAPTER 84

An Act respecting jurisdiction in Proceedings for Divorce⁽¹⁾

SHORT TITLE

Short title.

1. This Act may be cited as the *Divorce Jurisdiction Act*. 1930, c. 15, s. 1.

Married woman deserted and living apart for two years may commence proceedings for divorce.

Jurisdiction of court.

2. A married woman who either before or after the passing of this Act has been deserted by and has been living separate and apart from her husband for a period of two years and upwards and is still living separate and apart from her husband may, in any one of those provinces of Canada in which there is a court having jurisdiction to grant a divorce *a vinculo matrimonii*, commence in the court of such province having such jurisdiction proceedings for divorce *a vinculo matrimonii* praying that her marriage may be dissolved on any grounds that may entitle her to such divorce according to the law of such province, and such court has jurisdiction to grant such divorce if immediately prior to such desertion the husband of such married woman was domiciled in the province in which such proceedings are commenced. 1930, c. 15, s. 2.

(1) This Act was enacted in 1930. Its object is to give a married woman deserted by her husband and living separate and apart from him for two years or more, the right to make an application for divorce to the court having jurisdiction in the province where immediately prior to such desertion the husband was domiciled.

THE BRITISH COLUMBIA DIVORCE APPEALS ACT

R.S., 1952, CHAPTER 21

**An Act to provide for Appeal to the Court of Appeal of the
Province of British Columbia in Divorce and Matri-
monial Causes⁽¹⁾**

SHORT TITLE

1. This Act may be cited as the *British Columbia Divorce Appeals Act*. 1937, c. 4, s. 1. Short title.

2. The Court of Appeal of the Province of British Columbia shall have jurisdiction to hear and determine appeals from an order, judgment or decree of a court of the Province or a judge thereof having jurisdiction in divorce and matrimonial causes. 1937, c. 4, s. 2. Appellate jurisdiction in divorce and matrimonial causes.

(1) This Act was enacted in 1937. Up to the time of its passing in all the provinces in which the courts had jurisdiction in divorce and Matrimonial Causes there was an appeal from the trial judge to the Provincial Appellate Court except in the Province of British Columbia. There the only appeal was to the Privy Council, as decided in the case of *Claman vs. Claman* (1926) 35 B.C. Reports 137, affirmed by the Supreme Court of Canada (1926) 68 S.C. Reports 4. This Act provided for an appeal to the Court of Appeal for the Province of British Columbia.

PART V

ACTS OF CANADA

RELATING TO

FEDERAL CONSTITUTIONAL MATTERS

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SUCCESSION TO THE THRONE ACT

1 GEORGE VI, CHAPTER 16

An Act respecting alteration in the law touching the Succession to the Throne⁽¹⁾

[Assented to 31st March, 1937.]

WHEREAS his former Majesty, King Edward VIII, by His Royal Message of the tenth day of December, in the year of Our Lord one thousand nine hundred and thirty-six, was pleased to declare that He was irrevocably determined to renounce the Throne for Himself and His descendants, and that He had for that purpose executed the Instrument of Abdication, which is set out in Schedule One to this Act, and signified his desire that effect thereto should be given immediately:

Preamble.

AND WHEREAS, following upon communication to His Majesty's Government in Canada of his former Majesty's said declaration and desire, the request and consent of Canada, pursuant to the provisions of section four of the Statute of Westminster, 1931, to the enactment of His Majesty's Declaration of Abdication Act, 1936, which is set out in Schedule Two to this Act, was communicated to His Majesty's Government in the United Kingdom:

AND WHEREAS the following recital is set forth in the preamble to the Statute of Westminster, 1931:

"AND WHEREAS it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united

Statute
of West-
minster,
U.K.
22 Geo. V,
c. 4.

(1) It is provided in the preamble to the Statute of Westminster that any alteration in the law touching the Succession to the Throne shall require the assent of the Parliaments of all the Dominions.

On the 10th of December, 1936, King Edward the Eighth sent a message to the House of Commons of the United Kingdom to the effect that he had determined to renounce the throne. The message was accompanied by an instrument of abdication which had previously been executed and been witnessed by the King's three brothers. His Majesty's Declaration of Abdication Bill was brought in the same day and given a first reading in the House of Commons of the United Kingdom, whilst in Canada, as the House was not in session at that time, an order in council was passed expressing the request and consent of Canada to the bill in conformity with the spirit and provisions of the Statute of Westminster. In London the Act was passed and received assent the next day. In Canada the Succession to the Throne Bill was introduced on the 14th day of January, 1937, which was the first day of the session and received second and third readings in the House on the 19th of the same month. See note to the Preamble of the Statute of Westminster.

by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom”;

and accordingly it becomes necessary to declare the Assent of the Parliament of Canada to the alteration in the law touching the Succession to the Throne set forth in His Majesty's Declaration of Abdication Act, 1936.

NOW, THEREFORE, His Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Assent to
alteration in
the law
touching the
Succession
to the
Throne.

1. The alteration in the law touching the Succession to the Throne set forth in the Act of the Parliament of the United Kingdom intituled “His Majesty's Declaration of Abdication Act, 1936” is hereby assented to.

SCHEDULE ONE

INSTRUMENT OF ABDICATION

I, Edward the Eighth, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Emperor of India, do hereby declare My irrevocable determination to renounce the Throne for Myself and for My descendants, and My desire that effect should be given to this Instrument of Abdication immediately.

In token whereof I have hereunto set My hand this tenth day of December, nineteen hundred and thirty-six, in the presence of the witnesses whose signatures are subscribed.

EDWARD R.I.

Signed at Fort Belvedere
in the presence of

ALBERT.

HENRY.

GEORGE.

SCHEDULE TWO

AN ACT OF THE PARLIAMENT OF THE UNITED KINGDOM INTITULED:

An Act to give effect to His Majesty's declaration of abdication;
and for the purposes connected therewith.

A.D. 1936.

WHEREAS His Majesty by His Royal Message of the tenth day of December in this present year has been pleased to declare that He is irrevocably determined to renounce the Throne for Himself and His descendants, and has for that purpose executed the Instrument of Abdication set out in the Schedule to this Act, and has signified His desire that effect thereto should be given immediately;

AND WHEREAS, following upon the communication to His Dominions of His Majesty's said declaration and desire, the Dominion of Canada pursuant to the provisions of section four of the Statute of Westminster, 1931, has requested and consented to the enactment of this Act, and the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa have assented thereto:

BE IT THEREFORE enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) Immediately upon the Royal Assent being signified to this Act the Instrument of Abdication executed by His present Majesty on the tenth day of December, nineteen hundred and thirty-six, set out in the Schedule to this Act, shall have effect, and thereupon His Majesty shall cease to be King and there shall be a demise of the Crown, and accordingly the member of the Royal Family then next in succession to the Throne shall succeed thereto and to all the rights, privileges, and dignities thereunto belonging. Effect of His Majesty's declaration of abdication.

(2) His Majesty, His issue, if any, and the descendants of that issue, shall not after His Majesty's abdication have any right, title or interest in or to the succession to the Throne, and section one of the Act of Settlement shall be construed accordingly.

(3) The Royal Marriages Act, 1772, shall not apply to His Majesty after His abdication nor to the issue, if any, of His Majesty or the descendants of that issue.

2. This Act may be cited as His Majesty's Declaration of Abdication Act, 1936. Short title.

SCHEDULE

I, Edward the Eighth of Great Britain, Ireland, and the British Dominions beyond the seas, King, Emperor of India, do hereby declare My irrevocable determination to renounce the Throne for Myself and for My descendants, and My desire that effect should be given to this Instrument of Abdication immediately.

In token whereof I have hereunto set My hand this tenth day of December, nineteen hundred and thirty-six, in the presence of the witnesses whose signatures are subscribed.

EDWARD R. I.

Signed at Fort Belvedere
in the presence of

ALBERT.

HENRY.

GEORGE.

DEMISE OF THE CROWN ACT

R.S., 1952, CHAPTER 65

An Act respecting the Demise of the Crown⁽¹⁾

SHORT TITLE

Short title.	1. This Act may be cited as the <i>Demise of the Crown Act</i> . R.S., c. 46, s. 1.
Government commissions not affected by demise of the Crown. Proclamation.	2. (1) Upon the demise of the Crown, it is not necessary to renew any commission by virtue whereof any officer of Canada, any functionary in Canada, or any judge of a Dominion or provincial court in Canada held his office or profession during the previous reign, but a proclamation shall be issued by the Governor General, authorizing all persons in office as officers of Canada who held commissions under the late Sovereign, and all functionaries who exercised any profession by virtue of any such commission, and all judges of Dominion or provincial courts, to continue in the due exercise of their respective duties, functions and professions, and such proclamation shall suffice.
Oaths of allegiance to be taken.	(2) The incumbents shall, as soon thereafter as possible, take the usual and customary oath of allegiance, before the proper officer or officers thereunto appointed. R.S., c. 46, s. 2.
Continuance in office.	3. (1) Upon a proclamation being issued, and an oath taken pursuant to section 2, each and every such officer functionary and judge shall continue in the lawful exercise of the duties and functions of his office or profession, as fully as if appointed <i>de novo</i> by commission derived from the Sovereign for the time being.
Validity of acts done.	(2) All acts and things <i>bona fide</i> done and performed by such incumbents in their respective offices, and in the due and faithful performance of their duties, functions and professions, between the time of such demise and the proclamation so to be issued, if the oath of allegiance is duly taken, shall be deemed to be legally done, and valid accordingly. R.S., c. 46, s. 3.
Rights and prerogative of the Crown saved.	4. Nothing in this Act prejudices or in any way affects the rights or prerogative of the Crown with respect to any office or appointment derived or held by authority from it, or prejudices or affects the rights or prerogatives thereof in any other respect whatsoever. R.S., c. 46, s. 4.

(1) Section two of the Senate and House of Commons Act, c. 249 of the R.S., 1952, states that "no Parliament of Canada shall determine or be dissolved by the demise of the Crown".

5. No writ, cause, action, suit, plea, judgment or process or any other proceeding whatsoever, whether civil or criminal, in or issuing out of any court, shall be determined, abated or discontinued by the demise of the Crown, but every such writ, cause, action, suit, plea, judgment, process or other proceeding shall remain in full force and virtue to be proceeded upon or with notwithstanding any demise of the Crown. R.S., c. 46, s. 5.

Judicial
proceedings
preserved.

THE ROYAL STYLE AND TITLES ACT

1-2 ELIZABETH II, CHAPTER 9

An Act respecting the Royal Style and Titles⁽¹⁾

[Assented to 11th February, 1953.]

Preamble.

WHEREAS the Prime Ministers and other representatives of Commonwealth countries assembled in London in the month of December, in the year one thousand nine hundred and fifty-two, considered the form of the Royal Style and Titles, and, recognizing that the present form is not in accordance with present constitutional relations within the Commonwealth, concluded that, in the present stage of development of the Commonwealth relationship, it would be in accord with the established constitutional position that each member country should use for its own purposes a form suitable to its own particular circumstances but retaining a substantial element common to all;

AND WHEREAS the said representatives of all the Commonwealth countries concerned agreed to take such action as is necessary in each country to secure the appropriate constitutional approval for the changes now envisaged;

AND WHEREAS, in order to give effect to the aforesaid conclusions, it is desirable that the Parliament of Canada should assent to the issue of a Royal Proclamation establishing the Royal Style and Titles for Canada:

THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Assent to
establish-
ment of
Royal Style
and Titles.

1. The assent of the Parliament of Canada is hereby given to the issue by Her Majesty of Her Royal Proclamation under the Great Seal of Canada establishing for Canada the following Royal Style and Titles, namely,

“Elizabeth the Second, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith”.

(1) The Imperial Conference of 1926 having recommended that His Majesty's title should be “George V, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India”. The *Royal and Parliamentary Title Act*, 1927 provided for the alteration of the Royal Style and Titles. It was assented to on the 12th of April, 1927 and is found in c. 4 of the Statutes of the U.K. for that year. In 1947 (c. 72), the Assent of the Parliament of Canada was given to the omission from the Royal Style and Titles of the words “Indiæ Imperator” and the words “Emperor of India”.

In 1952-53 the above statute was passed.

2. (1) Paragraph (10) of section 37 of the *Interpretation Act*, chapter 1 of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

“(10) “Her Majesty”, “His Majesty”, “the Queen”, “the King” or “the Crown” means the Sovereign of the United Kingdom, Canada and Her other Realms and Territories, and Head of the Commonwealth;”

“Her Majesty”,
etc.

(2) Upon the coming into force of the Revised Statutes of Canada, 1952, paragraph (11) of section 35 of the *Interpretation Act*, chapter 158 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

“(11) “Her Majesty”, “His Majesty”, “the Queen”, “the King” or “the Crown” means the Sovereign of the United Kingdom, Canada and Her other Realms and Territories, and Head of the Commonwealth;”

“Her Majesty”,
etc.

3. Section 2 shall come into force on the day the Royal Proclamation authorized by section 1 is issued.⁽²⁾

Coming
into force.

(2) In 1947 an Act was passed by the Parliament of Canada “to provide for the Alteration of His Majesty’s Royal Style and Titles” which was assented to on the 17th of July of that year.

The Act read as follows.

“WHEREAS the following recital is set forth in the preamble to the *Statute of Westminster, 1931*:

“AND WHEREAS it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom”;

AND WHEREAS it is proposed that the words “*Indiae Imperator*” and “*Emperor of India*” be omitted from the present Royal Style and Titles.

THEREFORE, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act may be cited as *The Royal Style and Titles Act (Canada)*, 1947.

2. The assent of the Parliament of Canada is hereby given to the omission from the Royal Style and Titles of the words “*Indiae Imperator*” and the words “*Emperor of India*”.

3. The date on which the said omission becomes effective shall be published in the *Canada Gazette*.”

On the 22nd day of June, 1948, appeared the following “Extra” of the *Canada Gazette* under the heading “Government Notice”.

“DEPARTMENT OF EXTERNAL AFFAIRS

Notice is hereby given pursuant to The Royal Style and Titles Act (Canada), 1947, that effective the 22nd day of June, 1948, the words “*Indiae Imperator*” and “*Emperor of India*” shall be omitted from the Royal Style and Titles.”

The effective date of the coming into force of section 2 was 28th May, 1953.

THE SEALS ACT

R.S., 1952, CHAPTER 247

An Act to make provision for the Sealing of Royal Instruments⁽¹⁾

SHORT TITLE

Short title.

1. This Act may be cited as the *Seals Act*. 1939, c. 22, s. 1.

INTERPRETATION

Definitions.

2. In this Act,

“Great Seal of the Realm.”

(a) “Great Seal of the Realm” means the Great Seal of the United Kingdom of Great Britain and Northern Ireland for which provision was made in Article XXIV of the *Union with Scotland Act*, 1706 (6 Anne, A.D. 1706, chapter XI, An Act for an Union of the Two Kingdoms of England and Scotland) and includes the wafer seal;

(1) The purpose of The Seals Act, enacted in 1939 was to deal with two separate problems. The first was temporary and was a result of the prospective visit of His Majesty the King. It became necessary to make provision for the performance of the Royal functions in relation to the government of Canada during the period of the King's absence from the United Kingdom and presence in Canada. For the most part, these Royal functions could be performed notwithstanding the King's absence from the United Kingdom and presence in this country. There were, however, exceptional functions, particularly those which required the use of the Great Seal of the Realm and the Signets. During His Majesty's presence in Canada, under existing laws and practice, it would not have been possible to issue Royal Instruments under the Great Seal or the Signet. The Act made provision for passing such instruments under the Great Seal of Canada.

The second problem was to make permanent provision for Canadian Royal Seals for use in Canadian matters. At the passing of the Act the following transaction required instruments under the Great Seal or Signets.

The following Royal Instruments, relating to Canadian matters, were passed under the Great Seal:

Full Powers (authorizing the signature of Treaties and Conventions);

Instruments of Ratification (of Treaties and Conventions);

Letters Patent constituting the office of Governor General.

The following Royal Instruments relating to Canadian matters were issued under the Sign Manual and Signet:

Warrants authorizing the issuing of Instruments under the Great Seal;

Commission appointing the Governor General;

Instructions to the Governor General;

Exequaturs;

Appointment of Lieutenant-Governor of Canada or of an Administrator;

Formal granting of leave of absence to the Governor General;

Appointment of certain officers of the Public Service of Canada.

Both the Great Seal and the Signets are in the custody of certain of His Majesty's Ministers in the United Kingdom, and the procedure governing their use is largely based upon statutes of the United Kingdom. There is conventional recognition of the obligation of such Ministers, in Canadian matters, to use the seals, which are in their custody, in accordance with the

- (b) "signet" means the seal that, under the existing practice in the United Kingdom, is delivered by Her Majesty the Queen to each of her Principal Secretaries of State in the United Kingdom, and includes the lesser signet, or second secretarial seal and the cachet; "Signet."
- (c) "royal instrument" means an instrument, in respect of Canada, that, under the present practice, is issued by and in the name of the Queen and passed under the Great Seal of the Realm or under one of the signets; "Royal instrument."
- (d) "document under the sign-manual" means an instrument, in respect of Canada, that, under the present practice, is issued in the name and under the signature of Her Majesty the Queen, without any seal; "Document under the sign-manual."
- (e) "countersignature" refers to the endorsement upon a royal instrument or upon a document under the sign-manual of the signature of Her Majesty's responsible Canadian minister; and⁽²⁾ "Counter-signature."
- (f) "royal seals" include the Great Seal of Canada and any other seals or signets that may, with the approval of Her Majesty the Queen be authorized under this Act. 1939, c. 22, s. 2. "Royal Seals."

3. Notwithstanding any law in force in Canada, any royal instrument may be issued by and with the authority of Her Majesty the Queen and passed under the Great Seal of Canada, or under any other royal seal approved by Her Majesty the Queen for the purpose. 1939, c. 22, s. 3.⁽³⁾ Issue of royal instruments.

request of the responsible Canadian Ministers. This conventional recognition finds its expression in the modern practice with regard to countersignature. In drafting Royal Instruments, in Canadian matters, it is made clear, either by recitals or by provision for countersignature, that the responsibility for the instrument is imposed upon a Canadian Minister. The Act was designed to enable Canadian transactions, involving the use of Royal Seals, to be subjected, in form as well as in substance, to the direct control of responsible Canadian Ministers.

(2) (a), (b), (c) The purpose of these three definitions is to give precision to the term "Royal Instrument" so as to make it clear that "Royal Instrument" covers all of the sealed documents relating to the government of Canada, that were up to the passing of the Act issued by the King (and not by the Governor General) under any of the existing Royal seals.

As to the definition contained in paragraph (d) documents under the Sign Manual, strictly speaking, did not require legislative action. When provision was made for procedure governing the issuing of Royal Instruments, it was convenient to bring documents under the Sign Manual within its scope. (See Part VI of this volume Letters Patent constituting the Office of Governor General of Canada.)

The only important Canadian instruments under the Sign Manual were Letters of Credence to Ministers Plenipotentiary.

(3) This is the operative provision of the Act. It may be observed that it is enabling, in form, and does not interfere with existing procedure. Royal Instruments will continue to be valid, if issued under the Great Seal of the Realm, or the Signet. This section merely gives legal validity, in point of form, to transactions taking the form of written documents, issued in the name of the Queen, under either the Great Seal of Canada, or any other Royal Seal established under the next section of the Act.

Orders and
regulations.

4. Notwithstanding any law in force in Canada, the Governor in Council may, subject to the approval of Her Majesty the Queen, make orders and regulations relating to royal seals, the use thereof, royal instruments, and documents under the sign-manual, and, without restricting the generality of the foregoing, in relation to the following matters:

- (a) the specification of the instruments or classes of instruments that are to be passed under the royal seals;
- (b) the authorization of royal seals and the naming of such seals, and the specification of the purposes for which they are to be used;
- (c) the custody of the royal seals;
- (d) the procedure governing the use of the royal seals;
- (e) countersignature of royal instruments;
- (f) the issuing and countersignature of documents under the sign-manual;
- (g) the procedure whereby the approval of Her Majesty the Queen and her authority for the issuing of royal instruments and documents under the sign-manual is to be given; and
- (h) the authentication and proof of royal instruments and documents under the sign-manual, including the conditions under which certification by an official, or publication by the Queen's Printer, constitutes authentication and proof. 1939, c. 22, s. 4.⁽⁴⁾

(4) The first subsection gives to the Governor in Council the power, with the approval of the Queen, to make regulations governing the Royal Seals, Royal Instruments and documents under the Sign Manual, the procedure in such matters, and the authentication and proof of Royal Instruments.

It may be observed that, under the existing law, these matters are a part of the Royal Prerogative and can, for the most part, be dealt with without statutory authority. The effect of this provision is to impose a restriction upon the exercise of an existing prerogative power which, hereafter, can only be exercised by the Governor in Council with the approval of Her Majesty the Queen. Further, the second subsection imposes the statutory obligation of publication in the *Canada Gazette*.

The Great Seal of Canada

The actual Great Seal of Canada is the sixth since Confederation. Upon the death of a reigning Sovereign, a new seal is made, bearing the figure and name of the succeeding Sovereign. The last one authorized by Royal Warrant by Her Majesty, Queen Elizabeth II bears the figure of the Queen, robed and crowned and seated upon Her Throne, with orb and sceptre, with the Arms of Canada and the inscription: "Reine du Canada, Elizabeth II, Queen of Canada".

Each time after the seal has been used it is locked in its box and placed in a special compartment in a vault in the office of the Under-Secretary of State of Canada. The Canadian Seal was used for the first time on Tuesday, January 25, 1940 when Honourable Ernest Lapointe, Acting Secretary of State of Canada, assisted by Dr. E. H. Coleman, Under Secretary of State, impressed the parchment, appointing Dr. Henry Laureys, Montreal, High Commissioner for Canada to the Union of South Africa.

THE OATHS OF ALLEGIANCE ACT

R.S., 1952, CHAPTER 197

An Act respecting Oaths of Allegiance⁽¹⁾

SHORT TITLE

1. This Act may be cited as the *Oaths of Allegiance Act*. Short title.
R.S., c. 143, s. 1.

2. (1) Every person in Canada, who, either of his own accord, or in compliance with any lawful requirement made of him, or in obedience to the directions of any Act or law in force in Canada, except the *British North America Act, 1867*, and the *Canadian Citizenship Act*, desires to take an oath of allegiance, shall have administered to him and take the oath in the following form, and no other:

Oath of allegiance.

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law. So help me God.

Form of oath.

(1) Under the authority of the Royal and Parliamentary Titles Act, 1927 (Imp.) (17 Geo. V, c. 4), a Royal Proclamation was issued on May 13, 1927, changing the title of His Majesty to read as follows:

"George V, by the Grace of God of Great Britain, Ireland and the British dominions beyond the Seas, King, Defender of the Faith, Emperor of India."

In consequence thereof the *Oaths of Allegiance Act* (Can.) was amended to adopt the simple form of oath of allegiance that had been adopted in the United Kingdom, Australia, South Africa and other portions of the Empire, and which is set forth in the new section two.

The special form of oath of allegiance, which is prescribed by section 128 of the *British North America Act, 1867*, for members of the Senate and House of Commons and for members of the Legislative Councils and Legislative Assemblies, reads as follows:

"I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II."

Section 12 of *The Canadian Citizenship Act*, c. 33 of the Revised Statutes, 1952, prescribes that a slightly different form of oath of allegiance shall be administered under that Act, reading as follows:

"I, A.B., swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian Citizen. So help me God."

As a similar form is prescribed by the British Nationality and Status of Aliens Act, 1914, of the United Kingdom, which has been re-enacted by the Parliament of Canada, it is deemed advisable to retain the same form in the naturalization of aliens in Canada.

The British North America Act, 1867, and the *Canadian Citizenship Act* are, therefore, excepted from the operation of the amending Act.

Substitution
of Sovereign
for the
time being.

(2) Where in the said oath of allegiance the name of Her present Majesty is expressed, the name of the Queen or King of Great Britain, Ireland and the British dominions beyond the seas, for the time being, shall be substituted from time to time.

Regulations
respecting
oath of
allegiance.

(3) The Governor in Council may make regulations, which shall have the force of law, requiring any person appointed to or holding an office that is under the legislative authority of the Parliament of Canada to take the oath of allegiance notwithstanding that the taking of the oath is not made necessary by any existing law in force in Canada.

Regulations
respecting
oaths of
office.

(4) The Governor in Council may make regulations, which shall have the force of law, requiring any person appointed to or holding an office that is under the legislative authority of the Parliament of Canada to take an oath in the form prescribed by such regulations for the faithful performance of the duties of such office, in any case in which the form of such oath is not prescribed by an existing law in force in Canada. 1934, c. 21, s. 1.

No other
oath
necessary.

3. It is not necessary for any person appointed to any civil office in Canada, or for any mayor or other officer or member of any corporation therein, or for any person admitted, called or received as a barrister, advocate, notary public, attorney, solicitor or proctor, to make any declaration or subscription, or to take or subscribe any other oath than the oath aforesaid, and also such oath for the faithful performance of the duties of his office, or for the due exercise of his profession or calling as is required by any law in that behalf. R.S., c. 143, s. 3.

Within
what delay
shall oath
be taken.

4. The oath of allegiance hereinbefore set forth, together with the oath of office or oath for the due exercise of any profession or calling, shall be taken within the period and in the manner, and subject to the disabilities and penalties for the omission thereof, by law provided with respect to such oaths, in all such cases respectively. R.S., c. 143, s. 4.

An alle-
giance
affirma-
tion may be
substituted
for an oath.

5. (1) All persons allowed by law in civil cases, in any part of Canada, to affirm instead of making oath, shall be permitted to take an affirmation of allegiance in the like terms, *mutatis mutandis*, as the said oath of allegiance.

(2) Such affirmation of allegiance, taken before the proper officer, shall in all cases be accepted from such persons in lieu of such oath, and shall as to such affirmants have the like effect as the said oath of allegiance. R.S., c. 143, s. 5.

By whom
adminis-
tered.

6. All justices of the peace and other officers lawfully authorized either by virtue of their office, or special commission from the Crown for that purpose, may in any part of Canada administer the oath of allegiance or receive the affirmation of allegiance. R.S., c. 143, s. 6.

GOVERNOR GENERAL'S ACT

R.S., 1952, CHAPTER 139

An Act respecting the Governor General⁽¹⁾

SHORT TITLE

1. This Act may be cited as the *Governor General's Act*. Short title.
R.S., c. 85, s. 1.

2. The Governor General of Canada for the time being, Governor
or other the chief executive officer or administrator carrying General to
on the Government of Canada, on behalf and in the name of be a corpora-
the Queen, by whatsoever title he is designated, and his tion sole.
successors, shall be a corporation sole. R.S., c. 85, s. 2.

3. (1) All bonds, recognizances and other instruments by Bonds, etc.,
law required to be taken to the Governor General in his public how to be
capacity, shall be taken to him and his successors by his name taken.
of office, and may be sued for and recovered by him or his
successors by his or their name of office as such.

(2) Such bonds, recognizances or other instruments shall Not to vest
however in no case go to or vest in the personal representatives in personal
of the Governor General, chief executive officer or administrator representa-
of the Government in whose name they were so taken. tives.
R.S., c. 85, s. 3.

4. (1) There shall be payable yearly, and *pro rata* for any Salary of
period less than a year, to the Governor General of Canada for Governor to
the time being, a salary of ten thousand pounds sterling, equal be £10,000
to and of the value of forty-eight thousand six hundred and sterling.
sixty-six dollars and sixty-three cents.

(2) Such salary shall be payable out of the Consolidated Second
Revenue Fund of Canada, and shall form the second charge charge on
thereon. R.S., c. 85, s. 4. C.R. Fund.

(1) It is stated in the Report of the Imperial Conference, 1926 (p. 14) that the Governor-General of a Dominion is neither "the representative or agent of His Majesty's Government in Great Britain or of any department of that government". The Conference of 1930 took special care to define the position of the Governor as the King's personal representative. At the time of his appointment, the government of the Dominion selects its own candidate whom constitutionally the King must accept, which is according to the doctrine of ministerial responsibility. The result is that the Governor so chosen will exercise the executive power upon the advice of his responsible ministers, but naturally in the name of the King. The Government of Great Britain does not intervene in any way. The Prime Minister of the Dominion dictates the instructions.

See Part VI, Letters Patent constituting the Office of Governor General of Canada and notes thereto.

THE EXTRA-TERRITORIAL ACT

R.S., 1952, CHAPTER 107

An Act respecting Extra-territorial Operation of Acts of the Parliament of Canada⁽¹⁾

SHORT TITLE

Short title.

1. This Act may be cited as the *Extra-territorial Act*. 1932-33, c. 39, s. 1.

Acts of the Parliament of Canada to have extra-territorial operation.

2. Every Act of the Parliament of Canada now in force enacted prior to the 11th day of December, 1931, that in terms or by necessary or reasonable implication was intended, as to the whole or any part thereof, to have extra-territorial operation, shall be construed as if at the date of its enactment the Parliament of Canada then had full power to make laws having extra-territorial operation as provided by the *Statute of Westminster, 1931*. 1932-33, c. 39, s. 2.

(1) Section 3 of the Statute of Westminster reads as follows:

"3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation."

The right of extra-territoriality, which is one of the attributes of sovereignty, is the operation of laws upon the persons, the rights and the statutes existing outside of the limits of a State but continuing however to be subject to the laws of that State. It means for a nation the right to legislate for its own nationals outside of the three-mile limit of its own territory, in such a way as to subject them to its own laws when they return to their country's jurisdiction.

The above legislation, assented to on the 23rd May, 1933, has had the effect of confirming the extra-territorial application of the Acts of the Canadian Parliament.

SENATE AND HOUSE OF COMMONS ACT

R.S., 1952, CHAPTER 249

(as amended)

An Act respecting the Senate and House of Commons⁽¹⁾

SHORT TITLE

1. This Act may be cited as the *Senate and House of Commons Act*. R.S., c. 147, s. 1. Short title.

DEMISE OF THE CROWN⁽²⁾

2. No parliament of Canada shall determine or be dissolved by the demise of the Crown, but such parliament shall continue, and may meet, convene and sit, proceed and act, notwithstanding the demise of the Crown, in the same manner as if such demise had not happened. R.S., c. 147, s. 2. Not to dissolve Parliament.

3. Nothing in section 2 shall alter or abridge the power of the Crown, to prorogue or dissolve the Parliament of Canada. R.S., c. 147, s. 3. Prerogative saved.

PRIVILEGES AND IMMUNITIES OF MEMBERS AND OFFICERS⁽³⁾

4. The Senate and the House of Commons respectively, and the members thereof respectively, shall hold, enjoy and exercise, Privileges, etc., of Senate and House of Commons defined.

(a) such and the like privileges, immunities and powers as, at the time of the passing of the *British North America Act 1867*, were held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom, and by the members thereof, so far as the same are consistent with and not repugnant to the said Act; and

(b) such privileges, immunities and powers as are from time to time defined by Act of the Parliament of

(1) Under the heading "Legislative Power" it is enacted in the B.N.A. Act, 1867, by s. 17 that "There shall be one Parliament for Canada, consisting of the Queen and Upper House styled the Senate, and the House of Commons," also by s. 20 that there shall be a yearly session of the Parliament.

(2) See R.S., 1952, c. 65, *supra*, An Act respecting the Demise of the Crown.

(3) Section 18 of the B.N.A. Act, 1867, as enacted by s. 1 of The Parliament of Canada Act, 1875 (c. 38) states that the privileges and immunities, etc., shall be such as are from time to time defined by Act of the Parliament of Canada.

"The Supreme Court of Canada has held that any legislative body in Canada is competent, with the consent of the Crown, to pass laws defining its own powers and privileges but these must be subject to the rule that such powers and privileges do not exceed those possessed by the Imperial House of Commons at the time of passing of such laws." Bourinot's Parliamentary Procedure (4th edition), p. 40.

Canada, not exceeding those at the time of the passing of such Act held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom and by the members thereof respectively. R.S., c. 147, s. 4.

Such
privileges
to be noted
judicially.

5. Such privileges, immunities and powers are part of the general and public law of Canada, and it is not necessary to plead the same, but the same shall, in all courts in Canada, and by and before all judges, be taken notice of judicially. R.S., c. 147, s. 5.⁽⁴⁾

Printed
copy of
journals
to be
evidence
thereof.

6. Upon any inquiry touching the privileges, immunities and powers of the Senate and of the House of Commons or of any member thereof respectively, any copy of the journals of the Senate or House of Commons, printed or purported to be printed by the order of the Senate or House of Commons, shall be admitted as evidence of such journals by all courts, justices and others, without any proof being given that such copies were so printed. R.S., c. 147, s. 6.

REPORT AND PROCEEDINGS

In suits, etc.,
on proof
that the
publication
was made by
authority
of either
House, judge
shall stay
proceedings.

7. (1) Any person who is a defendant in any civil or criminal proceedings commenced and prosecuted in any manner for or on account of or in respect of the publication of any report, paper, votes or proceedings, by such person or by his servant, by or under the authority of the Senate or House of Commons, may bring before the court in which such proceedings are so commenced and prosecuted, or before any judge of the same, first giving twenty-four hours' notice of his intention so to do to the prosecutor or plaintiff in such proceedings, or to his attorney or solicitor, a certificate under the hand of the Speaker or Clerk of the Senate or House of Commons, as the case may be, stating that the report, paper, votes or proceedings, as the case may be, in respect whereof such civil or criminal proceedings have been commenced and prosecuted, was or were published by such person or by his servant, by order or under the authority of the Senate or House of Commons, as the case may be, together with an affidavit verifying such certificate.

(2) Such court or judge shall thereupon immediately stay such civil or criminal proceedings, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to, determined and superseded by virtue of this Act. R.S., c. 147, s. 7.

(4) "It seems now to be clearly settled that the courts will not be deterred from upholding private rights by the fact that parliamentary privilege is involved in their maintenance and that, except as regards the internal regulation of its proceedings by the House, courts of law will not hesitate to enquire into alleged privilege, as they would into local custom, and determine its extent and application." Anson, *Law and Custom of the Constitution* 1, 182.

8. (1) Where any civil or criminal proceedings are commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings, the defendant, at any stage of the proceedings, may lay before the court or judge, such report, paper, votes or proceedings, and such copy with an affidavit verifying such report, paper, votes or proceedings, and the correctness of such copy.

Stay of proceedings on proof of correctness of copy.

(2) The court or judge shall thereupon immediately stay such civil or criminal proceedings, and the same and every writ or process issued therein, shall be and shall be deemed to be finally put an end to, determined and superseded by virtue of this Act. R.S., c. 147, s. 8.

9. In any civil or criminal proceedings commenced or prosecuted for printing any extract from or abstract of any such report, paper, votes or proceedings, such report, paper, votes or proceedings may be given in evidence, and it may be shown that such extract and abstract was published *bona fide* and without malice, and, if such is the opinion of the jury, a verdict of not guilty shall be entered for the defendant. R.S., c. 147, s. 9.

What proof may be made on general issue in action for publishing extracts, etc. of reports, etc.

INDEPENDENCE OF PARLIAMENT⁽⁵⁾

Members of the House of Commons

10. Except as hereinafter specially provided,

(a) no person accepting or holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada, at the nomination of the Crown or at the nomination of any of the officers of the Government of Canada, to which any salary, fee, wages, allowance, emolument, or profit of any kind is attached; and

(b) no sheriff, registrar of deeds, clerk of the peace, or county crown attorney in any of the provinces of Canada,

No person holding any office of emolument under the Crown.

Nor any sheriff, etc., shall be a member.

is eligible as a member of the House of Commons, or shall sit or vote therein. R.S., c. 147, s. 10.

11. Nothing in section 10 renders ineligible any person holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada, at the nomination of the Crown, or at the nomination of any of the officers of the Government of Canada, as a member of the House of Commons, or disqualifies him from sitting or voting therein, if, by his commission or other instrument of appointment, it is declared or provided that he shall hold such office, commission

Exception for employees without a salary.

(5) With respect to the Preservation of the Independence of Parliament, see "Parliamentary Procedure and Practise in the Dominion of Canada", by Sir John Bourinot (4th edition), pp. 140 to 148.

or employment without any salary, fees, wages, allowances, emolument or other profit of any kind, attached thereto. R.S., c. 147, s. 11.

Members of
the military
forces.

Rep. & new
R.S., 1952,
c. 310, s. 5.

12. Nothing in this Act renders ineligible or disqualifies any person as a member of the House of Commons or to sit or vote therein, by reason of his being

(a) a member of Her Majesty's forces while he is on active service as a consequence of war, or

(b) a member of the reserve forces of the Canadian Forces who is not on full-time service other than active service as a consequence of war. R.S., 1952, c. 310, s. 5.

Seat of
member not
vacated by
accepting
office of
profit.

13. Notwithstanding anything in this Act, a member of the House of Commons shall not vacate his seat by reason only of his acceptance of an office of profit under the Crown, if that office is an office the holder of which is capable of being elected to, or sitting or voting in, the House of Commons. 1931, c. 52, s. 1.

Members
of Privy
Council also
excepted.

14. Nothing in this Act renders ineligible, as aforesaid, any person, member of the Queen's Privy Council, holding the recognized position of First Minister, President of the Queen's Privy Council for Canada, Minister of Finance, Minister of Justice, Minister of National Defence, Secretary of State of Canada, Minister of Transport, Minister of Public Works, Postmaster General, Minister of Agriculture, Minister of National Revenue, Minister of Fisheries, Minister of Trade and Commerce, Minister of Labour, Secretary of State for External Affairs, Minister of National Health and Welfare, Minister of Veterans Affairs, Minister of Resources and Development, Minister of Mines and Technical Surveys, Minister of Citizenship and Immigration, Minister of Defence Production or Solicitor General, or any office that is hereafter created, to be held by a member of the Queen's Privy Council for Canada and entitling him to be a Minister of the Crown, or disqualifies any such person to sit or vote in the House of Commons, if he is elected while he holds such office, or is a member of the House of Commons at the date of his nomination by the Crown for such office, and is not otherwise disqualified. 1931, c. 52, s. 1.

No contract-
or, etc.,
with the
Government
to be a
member.

15. No person, directly or indirectly, alone or with any other, by himself or by the interposition of any trustee or third party, holding or enjoying, undertaking or executing any contract or agreement, expressed or implied, with or for the Government of Canada on behalf of the Crown, or with or for any of the officers of the Government of Canada, for which any public money of Canada is to be paid, is eligible as a member of the House of Commons, or shall sit or vote in the said House. R.S., c. 147, s. 15.

16. If any member of the House of Commons accepts any office or commission or is concerned or interested in any contract, agreement, service or work which, by this Act, renders a person incapable of being elected to, or of sitting or voting in the House of Commons, or knowingly sells any goods, wares or merchandise to, or performs any service for the Government of Canada, or for any of the officers of the Government of Canada, for which any public money of Canada is paid or to be paid, whether such contract, agreement or sale is expressed or implied, and whether the transaction is single or continuous, the seat of such member shall thereby be vacated, and his election shall thenceforth be null and void. R.S., c. 147, s. 16.

Member becoming disqualified to vacate his seat.

17. (1) If any person disqualified or by this Act declared incapable of being elected to, or of sitting or voting in the House of Commons, or if any person duly elected, who has become disqualified to continue to be a member or to sit or vote, under section 16, nevertheless sits or votes, or continues to sit or vote therein, he shall thereby forfeit the sum of two hundred dollars for each and every day on which he so sits or votes.

Penalty on person disqualified sitting and voting.

(2) Such sum shall be recoverable from him by any person who sues for the same in any court of competent civil jurisdiction in Canada. R.S., c. 147, s. 17.

How recoverable.

18. Sections 15, 16 and 17 extend to any transaction or act begun and concluded during the recess of Parliament. R.S., c. 147, s. 18.

As to acts done in recess.

19. (1) In every contract, agreement or commission to be made, entered into or accepted by any person with the Government of Canada, or any of the departments or officers of the Government of Canada, there shall be inserted an express condition, that no member of the House of Commons shall be admitted to any share or part of such contract, agreement or commission, or to any benefit to arise therefrom.

Clause in all Government contracts.

(2) In case any person, who has entered into or accepted, or who shall enter into or accept any such contract, agreement or commission, admits any member or members of the House of Commons, to any part or share thereof, or to receive any benefit thereby, every such person shall, for every such offence, forfeit and pay the sum of two thousand dollars, recoverable with costs in any court of competent jurisdiction by any person who sues for the same. R.S., c. 147, s. 19.

Penalty for contravention.

20. This Act does not extend to disqualify any person as a member of the House of Commons by reason of his being

Further exceptions.

(a) a shareholder in any incorporated company having a contract or agreement with the Government of Canada, except any company that undertakes a contract for the building of any public work;

Shareholder of a company.

Persons
on whom
contracts
devolve, etc.

(b) a person on whom the completion of any contract or agreement, expressed or implied, devolves by descent or limitation, or by marriage, or as devisee, legatee, executor or administrator, until twelve months have elapsed after the same has so devolved on him;

Lenders of
money to
Government.

(c) a contractor for the loan of money or of securities for the payment of money to the Government of Canada under the authority of Parliament, after public competition, or respecting the purchase or payment of the public stock or debentures of Canada, on terms common to all persons;

Militiamen.

(d) an officer of the militia, or militiaman, not receiving any salary or emolument out of the public money of Canada, except his daily pay when called out for drill or active service, or annual or other allowances of any kind prescribed by the *National Defence Act*, or fixed or prescribed by the Governor in Council under the provisions of the *National Defence Act*, or sums paid for enrolment, and any pay or remuneration allowed him for the care of arms or for drill instruction; or

Member not
disqualified
for being
on service in
naval, army
or air forces
during war.

(e) in the naval, army or air forces of Canada or in any other of the naval, army or air forces of the Crown while such forces are on active service in consequence of any war, and receiving salary, pay or allowance as a member of such forces while on such active service.
R.S., c. 147, s. 20.

Members of the Senate

Members of
Senate not
to become
interested
in public
money.

21. (1) No person, who is a member of the Senate, shall directly or indirectly, knowingly and wilfully be a party to or be concerned in any contract under which the public money of Canada is to be paid.

Penalty for
contraven-
tion.

(2) If any person, who is a member of the Senate, knowingly and wilfully becomes a party to or concerned in any such contract, he shall forfeit the sum of two hundred dollars for each and every day during which he continues to be such party or so concerned.

Recovery.

(3) Such sum may be recovered from him by any person who sues for the same, in any court of competent jurisdiction in Canada.

Exception.

(4) This section does not render any senator liable for such penalties, by reason of his being a shareholder in any incorporated company, having a contract or agreement with the Government of Canada, except any company that undertakes a contract for the building of any public work.

Senators
members of
companies
contracting.

Lenders of
money to
Government.

(5) This section does not render any senator liable for such penalties by reason of his being, or having been, a contractor for the loan of money or of securities for the payment of money to the Government of Canada under the authority of Parliament, after public competition, or by reason of his being, or

having been, a contractor respecting the purchase or payment of the public stock or debentures of Canada, on terms common to all persons. R.S., c. 147, s. 21; 1932-33, c. 48, s. 1.

Members of the Senate and of the House of Commons

22. (1) No member of the Senate or of the House of Commons shall receive or agree to receive any compensation, directly or indirectly, for services rendered, or to be rendered, to any person, either by himself or another, in relation to any bill, proceeding, contract, claim, controversy, charge, accusation, arrest or other matter before the Senate or the House of Commons, or before a committee of either House, or in order to influence or to attempt to influence any member of either House.

Member not to accept fee for services in any parliamentary proceeding.

(2) Every member of the Senate offending against this section is liable to a fine of not less than one thousand dollars and not more than four thousand dollars; and every member of the House of Commons offending against this section is liable to a fine of not less than five hundred dollars and not more than two thousand dollars, and shall for five years after conviction of such offence, be disqualified from being a member of the House of Commons, and from holding any office in the public service of Canada.

Penalties.

(3) Any person who gives, offers, or promises to any such member any compensation for such services as aforesaid, rendered or to be rendered, is guilty of an indictable offence, and liable to one year's imprisonment and to a fine of not less than five hundred dollars and not more than two thousand dollars. R.S., c. 147, s. 22.

Offering fee to member.

Penalty.

LIMITATION OF ACTIONS

23. No person is liable to any forfeiture or penalty imposed by this Act, unless proceedings are taken for the recovery thereof within twelve months after such forfeiture or penalty has been incurred. R.S., c. 147, s. 23.

Limitation of suits.

EXAMINATION OF WITNESSES

24. The Senate or the House of Commons may administer an oath to any witness examined at the bar of the Senate or of the said House. R.S., c. 147, s. 24.

Oath to witnesses at bar.

25. The Senate or the House of Commons may at any time order witnesses to be examined on oath before any committee. R.S., c. 147, s. 25.

Ordinary examination under oath.

26. Any committee of the Senate or of the House of Commons may administer an oath to any witness examined before such committee. R.S., c. 147, s. 26.

Administration of oath by committee.

27. Where any witness to be examined under this Act conscientiously objects to take an oath, he may make his solemn affirmation and declaration. R.S., c. 147, s. 27.

Affirmation.

Force and
effect of
affirmation.

28. Any solemn affirmation and declaration so made is of the same force and effect, and entails the same consequences, as an oath taken in the usual form. R.S., c. 147, s. 28.

Form.

29. Every such oath or affirmation shall be in the Forms A and B respectively in the Schedule. R.S., c. 147, s. 29.

Perjury.

30. Any person examined as aforesaid who wilfully gives false evidence is liable to the penalties of perjury. R.S., c. 147, s. 30.

Persons to
administer
oaths.

31. Any oath or affirmation under this Act may be administered by

- (a) the Speaker of the Senate or of the House of Commons;
- (b) the chairman of any committee of the Senate or House of Commons; or
- (c) such person or persons as may from time to time be appointed for that purpose, either by the Speaker of the Senate or by the Speaker of the House of Commons, or by any standing or other order of the Senate or House of Commons respectively. R.S., c. 147, s. 31.

SPEAKERS' SALARIES

Salaries of
Speakers
and Deputy
Speaker.
Rep. & new,
1953-54,
c. 10, s. 1.

- 32.** The following salaries shall be paid, respectively:
- (a) to the Speaker of the Senate, the sum of nine thousand dollars per annum;
 - (b) to the Speaker of the House of Commons, the sum of nine thousand dollars per annum; and
 - (c) to the Deputy Speaker of the House of Commons, the sum of six thousand dollars per annum. 1953-54, c. 10, s. 1.

INDEMNITY⁽⁶⁾

Sessional
allowance.

33. (1) For the sessions of each Parliament there shall be paid to every member of the Senate and House of Commons a sessional allowance at the rate of eight thousand dollars per annum.

(6) In 1867 the parliamentary indemnity was \$600 for a session lasting more than thirty days. (1867, c. 3, s. 1.)

In 1873 the indemnity was increased to \$1,000 for a session lasting more than thirty days. (1873, c. 31, s. 13.)

In 1901 the indemnity was \$1,500 for a session lasting more than thirty days. (1901, c. 14, s. 1.)

In 1905 the indemnity was increased to \$2,000 for a session lasting more than thirty days. (1905, c. 43, s. 2.)

In 1920 the indemnity was \$4,000 for a session lasting more than fifty days. (1920, c. 69, s. 5.)

In 1923 the indemnity was unchanged (\$4,000) but for a session of more than sixty-five days.

In 1945 an expense allowance of \$2,000 was added to the indemnity. (1945 (2nd Sess.) c. 29, s. 1.) *See* section 44(4) *infra*.

In 1954, as indicated above the indemnity was increased to \$8,000 annually. (The expense allowance remains.)

(2) For the purposes of this section, a person shall be deemed to have become a member of the Senate on the day he is summoned to the Senate, and a person shall be deemed to have become a member of the House of Commons on the day last fixed for the election of a member of the House of Commons for the electoral district represented by him. 1953-54, c. 10, s. 2.

Commence-
ment.
Rep. & new,
1953-54,
c. 10, s. 2.

34. For the purposes of the allowances payable under section 33 and section 44, a person who, immediately before a dissolution of the House of Commons, was a member thereof shall be deemed to continue to be a member of the House of Commons until the date of the next following general election. 1953-54, c. 10, s. 2.

Dissolution
of House of
Commons.
Rep. & new,
1953-54,
c. 10, s. 2.

35. The sessional allowances payable under section 33 shall be paid in monthly instalments on the last day of each month.

How
allowance
paid.
Rep. & new,
1953-54,
c. 10, s. 2.

(2) This section shall be deemed to have come into force on the 12th day of November, 1953, but there shall be deducted from the amounts payable to a member of the Senate or the House of Commons under section 33 of the *Senate and House of Commons Act*, as amended by this Act, any sessional allowance paid under the *Senate and House of Commons Act* to such member subsequent to the 12th day of November, 1953, and prior to the day on which this Act was assented to. 1953-54, c. 10, s. 2.

Coming into
force.

36. (1) A deduction at the rate of forty dollars per day shall be made from such sessional allowance for every day beyond twenty-one on which the member does not attend a sitting of the House of which he is a member, if the House sits on such day; but in the case of a member elected or appointed after the commencement of a session, no day of a session previous to such election or appointment shall be reckoned as one of such twenty-one days. 1953-54, c. 10, s. 3.

Deductions
for non-
attendance.
Rep. & new,
1953-54,
c. 10, s. 3.

(2) Each day during the session on which there has been no sitting of such House in consequence of its having adjourned over such day, and each day on which the member is in the place where the session is held but is by reason of his illness unable to attend any such sitting as aforesaid, shall be reckoned as a day of attendance at such session for the purpose of the indemnity; and a member shall, in the case of his being unable to attend any such sitting by reason of his illness, be held to be in the place where the session is held whenever he is within ten miles of such place. 1923, c. 68, s. 3.

Illness.

37. In the calculation of any deduction from any member's sessional allowance on account of absence, days that were spent by such member on service as an officer or man of the reserve forces while on any training or other duty authorized by regulations or orders made under the *National Defence Act*, shall not be computed. 1953-54, c. 13, s. 18.

Days on
reserve force
service not
computed.
Rep. & new,
1953-54,
c. 13, s. 18.

No deduction from indemnity for absence on active service during war.

38. In the calculation of any deduction from any member's sessional allowance on account of absence, days which were spent by such member in the naval, army or air forces of Canada or in any other of the naval, army or air forces of the Crown while such forces are on active service in consequence of any war, shall not be computed. R.S., c. 147, s. 38.

Sections 39 & 40 repealed. 1953-54, c. 10, s. 4.

39. *Repealed.*⁽⁷⁾

40. *Repealed.*

Each House to make regulations.

41. The Senate or the House of Commons may respectively make regulations, from time to time, by rule or by order, rendering more stringent upon its own members the provisions of this Act that relate to attendance of members or to deductions to be made from the sessional allowance. R.S., c. 147, s. 41.

Allowance to Leader of Opposition. Rep. & new, 1953-54, c. 10, s. 5.

42. To the member occupying the recognized position of Leader of the Opposition in the House of Commons there shall be paid, in addition to his sessional allowance, an annual allowance of fifteen thousand dollars. 1953-54, c. 10, s. 5.

Additional annual allowance to the Leader of the Government and the Leader of the Opposition in the Senate. Rep. & new 1953-54, c. 10, s. 5.

43. To the member of the Senate occupying the recognized position of Leader of the Government in the Senate there shall be paid in addition to his sessional allowance an annual allowance of ten thousand dollars, and to the member of the Senate occupying the recognized position of Leader of the Opposition in the Senate there shall be paid in addition to his sessional allowance an annual allowance of six thousand dollars; but if the Leader of the Government is in receipt of a salary under the *Salaries Act*, the annual allowance shall not be paid. 1953-54, c. 10, s. 5.

(7) Sections 39 and 40 were repealed by s. 4 of c. 10 of the Statutes of 1953-54. They were as follows:

"39. (1) Whenever any person is a member of either House for fifty days or more during any session, extending over a period of sixty-five days or more, though such person may be a member for a part only of such session, he is entitled to his sessional allowance, subject to the deduction aforesaid for non-attendance as a member, and subject also to a deduction of twenty-five dollars for each day of such session before he was elected or appointed, or after he ceased to be a member, as the case may be.

(2) If he is a member for less than fifty days, he is entitled only to twenty-five dollars for each day's attendance at such session, whatever may be the length thereof.

(3) A member of either House for a part only of a session who becomes during the session a member of the other House, is not entitled to more than four thousand dollars for the session.

"40. In every session of Parliament covering a period of less than sixty-five days, there shall be payable to every member of the Senate and House of Commons attending at such session, twenty-five dollars for each day's attendance."

44. (1) For each session of Parliament, there shall also be allowed to each member of the Senate and of the House of Commons his actual moving or transportation expenses, and reasonable living expenses while on the journey between his place of residence and Ottawa, going and coming, once each way. Travelling expenses.

(2) No such allowance shall be made for travelling outside of Canada, except from one point in Canada, to another by any direct route. Outside of Canada.

(3) Any member residing at a greater distance than four hundred miles from Ottawa may commute such allowance for travelling and living expenses, receiving in lieu thereof an allowance of fifteen dollars per day for each day necessarily occupied in the journey between his place of residence and Ottawa, going and coming, once each way, the day of departure and the day of arrival being counted each as a full day. Commutation of travelling allowance.

(4) In addition to the expenses provided for in subsection (1), each member of the Senate and House of Commons shall be paid an allowance for expenses incidental to the discharge of his duties as a member, at the rate of two thousand dollars per annum for the period during which he is a member; this allowance shall be paid at the end of each calendar year and shall be subject to a deduction equal to one half of the deductions, if any, from the member's sessional allowances in respect of non-attendance at sittings of the House of which he is a member during such year; in the case of Ministers of the Crown, of the Leader of the Opposition in the House of Commons, and of members of the Senate, the amount of such allowance paid shall be deemed to be taxable income. R.S., c. 147, s. 43; 1945, c. 29, s. 1. Expense allowance to members of the Senate and the House of Commons.

45. (1) For each session of Parliament, at the end of each month and at the end of the session, each member shall furnish the Clerk of the House of which he is a member with a statement, signed by him, of the number of days' attendance during the month or session, as the case may be, for which he is entitled to the said allowance, and, in case days are included on which the member has failed to attend by reason of illness, setting forth that fact and that his absence was due to such illness and was unavoidable. Statement of attendance.

(2) Every member applying for an allowance for travelling and living expenses shall furnish the Clerk of the House of which he is a member with a statement, signed by him, of his actual moving or transportation expenses, and of his living expenses, as provided for in section 44, and, if the member has elected to commute such allowance under section 44, a statement of the time necessarily occupied in his journeys to and from Ottawa, as provided by that section. Statement in connection with travelling allowance.

Statements
certified and
sworn to
before
payment.

(3) Upon the said statements being certified by the Clerk, or the Assistant Clerk, and sworn to by the member before the accountant or assistant accountant of the House or any person authorized to take affidavits, the Clerk of the Senate or the accountant of the House of Commons, shall pay to the member the allowance to which he is entitled. R.S., c. 147, s. 44.

Sums
granted to
Her Majesty
for purposes
of this Act.

46. There is hereby granted to Her Majesty, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, an annual sum sufficient to enable Her Majesty to pay the amount of the sessional allowances hereinbefore mentioned. R.S., c. 147, s. 45.

How
expended as
to House of
Commons.

47. All moneys expended under this Act, in respect of the House of Commons, shall be expended and accounted for in the same manner as moneys for defraying the contingent expenses of the House of Commons are to be expended and accounted for under the *House of Commons Act*. R.S., c. 147, s. 46.

And as to
Senate.

48. (1) Credits for all sums voted by Parliament and payable in respect of allowances to members of the Senate as hereinbefore provided, and in respect of other expenditure for the service of the Senate, shall issue from time to time.

Credits on
banks of
Canada.

(2) Such credits shall issue on one of the banks of Canada in favour of the Clerk of the Senate and the assistant accountant of the Senate, or such other persons as the Speaker of the Senate from time to time designates for the purpose.

Clerk to
apply
therefor.

(3) Such Clerk shall, from time to time, apply for such credits as he deems necessary by an order signed by him. R.S., c. 147, s. 47.

SCHEDULE

FORM A

The evidence you shall give on this examination shall be the truth, the whole truth and nothing but the truth. So help you God.

FORM B

I, A.B., do solemnly, sincerely and truly affirm and declare the taking of any oath is according to my religious belief unlawful, and I do also solemnly sincerely and truly affirm and declare, etc.
R.S., c. 147, Sch.

HOUSE OF COMMONS ACT

R.S., 1952, CHAPTER 143

An Act respecting the House of Commons⁽¹⁾

SHORT TITLE

1. This Act may be cited as the *House of Commons Act*. Short title.
R.S., c. 145, s. 1.

DISQUALIFICATIONS OF MEMBERS

2. (1) No person who, on the day of the nomination at any election to the House of Commons, is a member of any legislative council or of any legislative assembly of any province that is now or hereafter included within Canada, is eligible as a member of the House of Commons, or is capable of being nominated or voted for at such election, or of being elected to or of sitting or voting in the House of Commons. Member of legislatures not eligible.

(2) If any one so declared ineligible is elected and returned as a member of the House of Commons, his election is null and void. R.S., c. 145, s. 2. Election to be void.

3. If any member of the House of Commons is elected and returned to any legislative assembly, or is elected or appointed a member of any legislative council and accepts the seat, his election as a member of the House of Commons thereupon becomes null and void, his seat shall be vacated, and a new writ shall issue forthwith for a new election. R.S., c. 145, s. 3. Member accepting seat in provincial legislature to vacate his seat.

4. Any member of the House of Commons elected or appointed to a provincial legislature without his knowledge or consent shall continue to hold his seat in the House of Commons If elected or appointed without his knowledge.

(1) The House of Commons is elected for five years unless sooner dissolved by the Governor General. *See the Canada Elections Act*, 1960, c. 39, as to the qualifications and disqualifications of electors, qualifications of candidates, persons ineligible as candidates and procedure at dominion elections.

The number of members is regulated by s. 51 of the B.N.A. Act, 1867 (*see comments under that section*.) *The Representation Act*, c. 334 of the Revised Statutes, 1952, which governs at present is based on the census of 1951, *see* The B.N.A. Act, 1943, which states that "it shall not be necessary that the representation . . . be readjusted in consequence of the completion of the decennial census taken in the year 1941" until after the war and also The B.N.A. Act, 1946 which repealed and re-enacted s. 51 making new provision as to the readjustment of representation in the House of Commons, and finally the B.N.A. Act, 1952 which repealed and re-enacted s. 51, as enacted by the Imperial Act of 1946, making once more new provisions as to the readjustment of the representation in the House of Commons.

as if no such election or appointment to a provincial legislature had been made, if, without taking his seat in the provincial legislature, and within ten days after being notified of such election or appointment, or, if he is not within the province at the time, then within ten days after his arrival within the province, he resigns his seat in such legislature, and notifies the Speaker of the House of Commons of such resignation. R.S., c. 145, s. 4.

Penalty for
person
ineligible
sitting or
voting.

5. (1) If any person who is by this Act declared ineligible as a member of the House of Commons, or incapable of sitting or voting therein, so sits or votes, he shall forfeit the sum of two thousand dollars for every day he sits or votes.

Recovery.

(2) Such sum may be recovered by any person who sues for the same, by action in any form allowed by law in the province in which the action is brought, in any court having jurisdiction. R.S., c. 145, s. 5.

RESIGNATION OF MEMBERS⁽²⁾

Member
may resign
his seat by:

6. (1) Any member of the House of Commons may resign his seat

Notice;

(a) by giving, in his place in the House, notice of his intention to resign, in which case, and immediately after such notice has been entered by the clerk on the journals of the House, the Speaker shall forthwith address his warrant, under his hand and seal, to the Chief Electoral Officer, for the issue of a writ for the election of a new member in the place of the member resigning, or

Declaration.

(b) by addressing and causing to be delivered to the Speaker a declaration of his intention to resign his seat, made in writing under his hand and seal before two witnesses, which declaration may be so made and delivered either during a session of Parliament, or in the interval between two sessions, in which case the Speaker shall, upon receiving such declaration, forthwith address his warrant, under his hand and seal, to the Chief Electoral Officer, for the issue of a writ for the election of a new member in the place of the member so resigning,

Writ.

and in either case a writ shall issue accordingly.

Entry in
journals.

(2) An entry of the declaration so delivered to the Speaker shall be thereafter made in the journals of the House. R.S., c. 145, s. 6.

(2) See Bourinot's Parliamentary Procedure (4th edition), at pp. 157-161 as to resignations of members and vacancies.

7. (1) If any member of the House of Commons wishes to resign his seat in the interval between two sessions of Parliament, and there is then no Speaker, or, if the Speaker is absent from Canada, or, if such member is himself the Speaker, he may address or cause to be delivered to any two members of the House the declaration before mentioned of his intention to resign.

Proceedings where a member wishes to resign and there is no Speaker, or he himself is Speaker.

(2) Such two members, upon receiving such declaration, shall forthwith address their warrant, under their hands and seals, to the Chief Electoral Officer for the issue of a new writ for the election of a member in the place of the member so notifying his intention to resign, and such writ shall issue accordingly. R.S., c. 145, s. 7.

Warrant for election writ.

8. Any member tendering his resignation in any manner hereinbefore provided, shall be held to have vacated his seat and shall cease to be a member of the House. R.S., c. 145, s. 8.

Seat vacant.

9. No member shall tender his resignation while his election is lawfully contested, or until after the expiration of the time during which it may by law be contested on other grounds than corruption or bribery. R.S., c. 145, s. 9.

Not to resign when election is contested.

VACANCIES

10. If any vacancy happens in the House of Commons by the death of any member, or by his accepting any office, the Speaker, on being informed of such vacancy by any member of the House in his place, or by notice in writing under the hands and seals of any two members of the House, shall forthwith address his warrant to the Chief Electoral Officer, for the issue of a new writ for the election of a member to fill the vacancy; and a new writ shall issue accordingly. R.S., c. 145, s. 10.

Vacancy by death or acceptance of office.

11. If, when such vacancy happens, or at any time thereafter, before the Speaker's warrant for a new writ has issued, there is no Speaker of the House, or if the Speaker is absent from Canada, or if the member whose seat is vacated is himself the Speaker, then, any two members of the House may address their warrant, under their hands and seals, to the Chief Electoral Officer, for the issue of a new writ for the election of a member to fill such vacancy; and such writ shall issue accordingly. R.S., c. 145, s. 11.

If there is no Speaker, or he is absent or member is himself the Speaker.

12. (1) A warrant may issue to the Chief Electoral Officer for the issue of a new writ for the election of a member of the House of Commons to fill any vacancy arising subsequently to a general election, and before the first meeting of Parliament thereafter, by reason of the death or acceptance of such office of any member.

Vacancy occurring before Parliament meets after a general election.

When writ
may issue.

(2) Such writ may issue at any time after such death or acceptance of office.

Effect of
election.

(3) The election to be held under such writ does not in any manner affect the rights of any person entitled to contest the previous election.

Report of
trial judge
or Supreme
Court.

(4) The report of any judge appointed to try such previous election, or of the Supreme Court of Canada, in case of an appeal, shall determine whether the member who has so died or accepted office, or any other person was duly returned or elected thereat.

Effect of
determina-
tion.

(5) The determination, if adverse to the return of such member, and in favour of any other candidate, avoids the election held under this section, and the candidate declared duly elected at the previous election is entitled to take his seat as if no such subsequent election had been held. R.S., c. 145, s. 12.

Election
writ to issue
within six
months
after
warrant.

13. (1) In the event of a vacancy occurring a writ shall be issued within six months after the receipt by the Chief Electoral Officer of the warrant for the issue of a new writ for the election of a member of the House of Commons.

Exceptions.

(2) This section does not apply where the vacancy in respect of which the warrant has issued occurs within six months of the expiry of the time limited for the duration of the House of Commons.

Dissolution.

(3) If Parliament is dissolved after the issue of a new writ hereunder such writ shall thereupon be deemed to have been superseded and withdrawn. R.S., c. 145, s. 13.

Nomination
for one
electoral
district only.

14. No person shall be nominated and consent to be nominated so as to be a candidate for election as a member of the House of Commons for more than one electoral district at the same time, and if any person is so nominated for more than one electoral district and consents thereto all such nominations are null and void. R.S., c. 145, s. 14.

INTERNAL ECONOMY⁽³⁾

In case of
dissolution,
Speaker to
act until
another is
chosen.

15. The person who fills the office of Speaker at the time of any dissolution of Parliament, shall, for the purpose of the following provisions of this Act, be deemed to be the Speaker until a Speaker is chosen by the new Parliament. R.S., c. 145, s. 15.⁽⁴⁾

(3) See Bourinot's *Parliamentary Procedure* (4th edition), pp. 197-198.

(4) See the *Speaker of the House of Commons Act*, c. 254 of the *Revised Statutes of Canada*, 1952.

16. (1) The Governor in Council shall appoint four members of the Queen's Privy Council for Canada who are also members of the House of Commons, who, with the Speaker of the House of Commons, shall be commissioners for the purposes of this section and sections 17 and 18.

Speaker and four other commissioners to act.

(2) The names and offices of such commissioners shall be communicated by message from the Governor in Council to the House of Commons, in the first week of each session of Parliament.

How appointed.

(3) Three of the commissioners, whereof the Speaker of the House of Commons shall be one, may carry the said provisions into execution.

Quorum.

(4) In the event of the death, disability, or absence from Canada of the Speaker during any dissolution or prorogation of Parliament, any three of the commissioners may carry the said provisions into execution. R.S., c. 145, s. 16.

Case of death or absence of Speaker.

17. (1) An estimate shall annually be prepared by the Clerk of the House of Commons of the sums which will probably be required to be provided by Parliament for the payment of the indemnity and the actual moving or transportation expenses of members, and of salaries, allowances and contingent expenses of the House, and of the several officers and clerks thereof under his direction, during the fiscal year.

Estimate to be made by the Clerk.

(2) The Sergeant-at-Arms of the House of Commons shall annually prepare an estimate of the sums that will probably be required to be provided by Parliament for the payment of salaries or allowances of the messengers, doorkeepers and servants of the House under his direction, and of the contingent expenses under his direction, during such year.

And by the Sergeant-at-Arms.

(3) Such estimates shall be submitted to the Speaker for his approval, and are subject to such approval and to such alterations as the Speaker considers proper.

To be submitted to Speaker.

(4) The Speaker shall thereupon prepare an estimate of the sums requisite for the several purposes aforesaid, and shall sign the same.

Speaker to prepare an estimate.

(5) Such several estimates of the Clerk, Sergeant-at-Arms and Speaker shall be transmitted by the Speaker to the Minister of Finance for his approval, and shall be laid severally before the House of Commons with the other estimates for the year. R.S., c. 145, s. 17.

Estimates to be submitted to Minister of Finance.

18. All sums of money voted by Parliament upon such estimates or payable to members of the House of Commons under the *Senate and House of Commons Act*, are subject to the order of the commissioners, or any three of them, of whom the Speaker shall be one. R.S., c. 145, s. 18.

Money payable for member's indemnity subject to order of commissioners.

OFFICERS⁽⁵⁾

Inquiry.

19. (1) If any complaint or representation is at any time made to the Speaker for the time being of the misconduct or unfitness of any clerk, officer, messenger or other person attendant on the House of Commons, the Speaker may cause an inquiry to be made into the conduct or fitness of such person.

Suspension
and
removal.

(2) If thereupon it appears to the Speaker that such person has been guilty of misconduct, or is unfit to hold his situation, the Speaker may, if such clerk, officer, messenger or other person has been appointed by the Crown, suspend him and report such suspension to the Governor General, and, if he has not been appointed by the Crown, suspend or remove him. R.S., c. 145, s. 21.

Oath of
allegiance.

20. (1) The Clerk of the House of Commons shall subscribe and take before the Speaker the oath of allegiance, and all other officers, clerks and messengers of the House of Commons shall subscribe and take before the Clerk of the House of Commons the oath of allegiance.

Registry.

(2) The Clerk of the House of Commons shall keep a register of all such oaths. R.S., c. 145, s. 22.

(5) See Standing Orders 83 to 92, of the House of Commons respecting the Officers of the House and their duties.

THE SPEAKER OF THE SENATE ACT⁽¹⁾

R.S., 1952, CHAPTER 255

An Act respecting the Speaker of the Senate

SHORT TITLE

1. This Act may be cited as the *Speaker of the Senate Act*. Short title.
R.S., c. 149, s. 1.

2. Whenever the Speaker of the Senate, from illness or other cause, finds it necessary to leave the chair during any part of the sittings of the Senate on any day, he may call upon any senator to take the chair and preside as Speaker during the remainder of such day, unless he himself resumes the chair before the close of the sittings for that day. R.S., c. 149, s. 2.

Provision
for the
Speaker's
illness and
leaving
the chair.

3. Whenever the Senate is informed by the Clerk at the table of the unavoidable absence of the Speaker, the Senate may choose any senator to preside as the Speaker during such absence, and such senator shall thereupon have and execute all the powers, privileges and duties of Speaker, until the Speaker himself resumes the chair, or another Speaker is appointed by the Governor General. R.S., c. 149, s. 3.

Provision
for
unavoidable
absence of
Speaker.

4. Every act done by any senator, acting as aforesaid, has the same effect and validity as if the act had been done by the Speaker himself. R.S., c. 149, s. 4.

Validity of
acts done in
such cases.

(1) By virtue of the B.N.A. Act, 1867, only the provinces (*see* section 92) had the right to amend their own constitution. As will be noticed, on reading section 91, the federal parliament has now been granted the same power. However doubts having arisen at the end of the last century as to the power of Parliament to pass the above mentioned Act the latter was confirmed by imperial statute assented to on the fifth of September, 1895. *See* Part II of this volume for the Imperial Act.

THE SPEAKER OF THE HOUSE OF COMMONS ACT⁽¹⁾

R.S., 1952, CHAPTER 254

An Act respecting the Speaker of the House of Commons

SHORT TITLE

Short title.

1. This Act may be cited as the *Speaker of the House of Commons Act*. R.S., c. 148, s. 1.

Speaker
leaving the
chair, who
to preside.

2. Whenever the Speaker of the House of Commons, from illness or other cause, finds it necessary to leave the chair during any part of the sittings of the said House, on any day, he may call upon the Chairman of Committees, or, in his absence, upon any member of the House, to take the chair and to act as deputy speaker during the remainder of such day, unless he himself resumes the chair before the close of the sittings for that day. R.S., c. 148, s. 2.

In unavoid-
able absence
of speaker,
chairman of
committees
to act.

3. Whenever the House is informed by the Clerk at the table of the unavoidable absence of the Speaker, the Chairman of Committees, if present, shall take the chair and shall perform the duties and exercise the authority of speaker in relation to all the proceedings of the House, until the meeting of the House on the next sitting day, and so on from day to day on the like information being given to the House until the House otherwise orders; but if the House adjourns for more than twenty-four hours, the deputy speaker shall continue to perform the duties and exercise the authority of speaker for twenty-four hours only after such adjournment. R.S., c. 148, s. 3.

Validity
of any act
done while
deputy
speaker
in chair.

4. If, at any time during a session of Parliament the Speaker is temporarily absent from the House, and a deputy speaker thereupon performs the duties and exercises the authority of speaker, as hereinbefore provided, or pursuant to the standing orders or other order, or a resolution of the House, every act done and proceeding taken in or by the House, in the exercise of its powers and authority, is as valid and effectual as if the Speaker himself was in the chair. R.S., c. 148, s. 4.

(1) This Act was originally chapter one of the Statutes of 1885. Section four of that Act had repealed chapter two of the Statutes of 1868 instituted "*An Act respecting the office of Speaker of the House of Commons of the Dominion of Canada*".

5. Every act done, and warrant, order or other document Idem.
issued, signed or published by such deputy speaker in relation
to any proceedings of the House of Commons, or that under
any statute would be done, issued, signed or published by the
Speaker if then able to act, has the same effect and validity as
if the same had been done, issued, signed or published by the
Speaker for the time being. R.S., c. 148, s. 5.

THE DEPARTMENT OF EXTERNAL AFFAIRS ACT⁽¹⁾

R.S., 1952, CHAPTER 68

An Act respecting the Department of External Affairs

SHORT TITLE

- Short title. **1.** This Act may be cited as the *Department of External Affairs Act*. R.S., c. 65, s. 1.
- Department to be under Secretary of State for External Affairs. **2.** There shall be a department of the Government of Canada called the Department of External Affairs over which a minister of the Crown to be known as the Secretary of State for External Affairs, and hereafter referred to as the Minister, shall preside. 1946, c. 6, s. 1.
- Deputy head. **3.** (1) The Governor in Council may appoint an officer called the Under-Secretary of State for External Affairs to be the deputy head of the Department and hold office during pleasure.
- Officers, clerks, etc. (2) Such other officers, clerks and servants as are requisite for the due administration of the business of the Department shall be appointed in the manner authorized by law. R.S., c. 65, s. 4.
- Powers and duties of Department. **4.** The Minister, as head of the Department, has the conduct of all official communications between the Government of Canada and the Government of any other country in connec-

(1) The Department of External Affairs was constituted in May 1909 (8-9 Edward VII, c. 13) and placed originally under the Secretary of State. It has charge of the administration of all external affairs pertaining to Canada. In April 1912, control of the Department passed to the Prime Minister, who took the added title of Secretary of State for External Affairs until April 1946, when the External Affairs Act was amended to enable any Minister of the Crown to be Secretary of State for External Affairs.

The right of diplomatic representation was discussed in the Canadian Parliament as early as 1882. Ten years later Sir Wilfrid Laurier gave the idea his blessing, at the same time giving it as his opinion that this was but one necessary step in our inevitable evolution towards autonomy.

Sir Robert Borden, having made known at the Paris conference the right of Canada to diplomatic representation in foreign countries, announced to the House of Commons, on May 10, 1920, the opening of a Canadian legation in Washington. It was only in 1926, however, that the Honourable Vincent Massey was sent to Washington by the Right Honourable Mackenzie King, as Canadian Minister to the American Republic.

In 1926 also, the Honourable Philippe Roy was appointed as Minister to Paris and the Honourable Herbert Marler was sent to Tokyo.

tion with the external affairs of Canada, and is charged with such other duties as may be assigned to the Department by order of the Governor in Council in relation to such external affairs, or to the conduct and management of international or intercolonial negotiations so far as they may appertain to the Government of Canada. R.S., c. 65, s. 5.

5. The administration of all matters relating to the foreign consular service in Canada shall be transferred to the Department of External Affairs, R.S., c. 65, s. 6. Foreign consular service.

6. The Minister shall annually lay before Parliament, within ten days after the meeting thereof, a report of the proceedings, transactions and affairs of the Department during the year then next preceding. R.S., c. 65, s. 7. Annual report to Parliament.

THE HIGH COMMISSIONER IN THE UNITED KINGDOM ACT

R.S., 1952, CHAPTER 142

**An Act respecting the High Commissioner for Canada in the
United Kingdom⁽¹⁾**

SHORT TITLE

- Short title. **1.** This Act may be cited as the *High Commissioner in the United Kingdom Act*. 1938 c. 30, s. 1.
- Appoint-
ment. **2.** The Governor in Council may, under the Great Seal of Canada, from time to time, appoint an officer called the High Commissioner for Canada in the United Kingdom to hold office during pleasure. 1938, c. 30, s. 2.
- Powers and
duties. **3.** The High Commissioner for Canada in the United Kingdom shall
- (a) act as representative and resident agent of Canada in the United Kingdom, and in that capacity, execute such powers and perform such duties as are, from time to time, conferred upon and assigned to him by the Governor in Council;
 - (b) carry out such instructions as he, from time to time, receives from the Secretary of State for External Affairs respecting the general interests of Canada in the United Kingdom; and
 - (c) subject to paragraphs (a) and (b), supervise the official activities of the various agencies of the Canadian Government in the United Kingdom. 1938, c. 30, s. 3.
- Officers
and clerks. **4.** There may be appointed in the manner authorized by law such officers and clerks in the office of the High Commissioner for Canada in the United Kingdom as may be necessary for the proper conduct of the business of the office. 1938, c. 30, s. 4.

(1) The office of High Commissioner for Canada in the United Kingdom was created in 1880 by a statute of the Dominion Parliament.

The duties of the High Commissioner are set forth in c. 30 of the Statutes of Canada, 1938, now c. 142 of the Revised Statutes of Canada 1952. (See s. 3 as to his powers and duties.)

THE SUPREME COURT ACT

R.S., 1952, CHAPTER 259

(as amended)

An Act respecting the Supreme Court of Canada⁽¹⁾

SHORT TITLE

1. This Act may be cited as the *Supreme Court Act*. Short title.
R.S., c. 35, s. 1.

INTERPRETATION

2. In this Act, Definitions.
- (a) "appeal" includes any proceeding to set aside or vary "Appeal."
any judgment of the court appealed from;
 - (b) "final judgment" means any judgment, rule, order or "Final
decision that determines in whole or in part any judgment."
substantive right of any of the parties in controversy
in any judicial proceeding;
 - (c) "judge" means a judge of the Supreme Court of "Judge."
Canada and includes the Chief Justice;
 - (d) "judgment," when used with reference to the court "Judgment."
appealed from, includes any judgment, rule, order,
decision, decree, decretal order or sentence thereof;
and when used with reference to the Supreme Court,
includes any judgment or order of that Court;
 - (e) "judicial proceeding" means and includes any action, "Judicial
suit, cause, matter or other proceeding in disposing of proceeding."
which the court appealed from has not exercised merely
a regulative, administrative, or executive jurisdiction;
 - (f) "Registrar" means the Registrar of the Supreme Court; "Registrar."
 - (g) "the court appealed from" means the court from which "Court
the appeal is brought directly to the Supreme Court, appealed
whether such court is one of original jurisdiction or a from."
court of appeal;

(1) From the discussions at the Imperial Conference of 1926 it became clear that it was no part of the policy of His Majesty's government in Great Britain that questions affecting judicial appeals should be determined otherwise than in accordance with the wishes of the part of the empire primarily affected.

Appeals to the Privy Council in criminal matters were abolished by c. 53 (section 17) of the Statutes of 1932-33.

After a Reference to the Supreme Court and to the Privy Council the Supreme Court was given exclusive ultimate appellate civil and criminal jurisdiction within and for Canada by c. 37 (s. 3) of the Statutes of 1949 (2nd Session). See s. 54 of the present Statute.

- "Supreme Court."
 "Witness."
- (h) "the Supreme Court" or "the Court" means the Supreme Court of Canada;
- (i) "witness" means any person, whether a party or not, to be examined under the provisions of this Act. R.S., c. 35, s. 2.

THE COURT

- Original Court continued.
- 3.** The court of common law and equity in and for Canada now existing under the name of the Supreme Court of Canada is hereby continued under that name, as a general court of appeal for Canada, and as an additional court for the better administration of the laws of Canada, and shall continue to be a court of record. R.S., c. 35, s. 3.

THE JUDGES

- Constitution of Court.
- 4.** The Supreme Court shall consist of a chief justice to be called the Chief Justice of Canada, and eight puisne judges, who shall be appointed by the Governor in Council by letters patent under the Great Seal. 1949 (2nd Sess.), c. 37, s. 1.

- Who may be appointed judges.
- 5.** Any person may be appointed a judge who is or has been a judge of a superior court of any of the provinces of Canada, or a barrister or advocate of at least ten years' standing at the bar of any of the said provinces. R.S., c. 35, s. 5.

- Three judges from Province of Quebec.
- 6.** Three at least of the judges shall be appointed from among the judges of the Court of Queen's Bench, or of the Superior Court, or the barristers or advocates of the Province of Quebec. 1949 (2nd Sess.), c. 37, s. 1.

- No other office to be held.
- 7.** No judge shall hold any other office of emolument either under the Government of Canada or under the government of any province of Canada. R.S., c. 35, s. 7.

- Residence.
- 8.** The judges shall reside at the City of Ottawa, or within five miles thereof. R.S., c. 35, s. 8.

- Tenure of office.
- 9.** (1) Subject to subsection (2), the judges hold office during good behaviour, but are removable by the Governor General on address of the Senate and House of Commons.

- Cessation of office.
- (2) A judge ceases to hold office upon attaining the age of seventy-five years. 1949 (2nd Sess.), c. 37, s. 1.

10. Every judge shall, before entering upon the duties of his office as such judge, take an oath in the following form:

- Oath of office.
- I, _____, do solemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as Chief Justice (or as one of the judges) of the Supreme Court of Canada. So help me God. R.S., c. 35, s. 10.

<p>11. The oath referred to in section 10 shall be administered to the Chief Justice before the Governor General, or person administering the Government of Canada, in Council, and to the puisne judges by the Chief Justice, or, in his absence or illness, by any other judge present at Ottawa. R.S., c. 35, s. 11.</p>	<p>How administered.</p>
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THE REGISTRAR AND OTHER OFFICERS

<p>12. (1) The Governor in Council may by instruments under the Great Seal appoint fit and proper persons, being barristers of at least five years' standing, to be Registrar of the Supreme Court and Deputy Registrar of the Supreme Court respectively.</p>	<p>Appointment of Registrar and Deputy Registrar.</p>
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<p>(2) Such other officers, clerks and employees as are required for the purposes of the Court shall be appointed under the provisions of the <i>Civil Service Act</i>. 1956, c. 48, s. 1.</p>	<p>Staff.</p>
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<p>13. (1) The Registrar and Deputy Registrar shall be appointed to hold office during pleasure and shall each be paid a salary to be fixed by the Governor in Council.</p>	<p>Tenure and salary.</p>
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<p>(2) The Registrar and Deputy Registrar shall devote their full time to their respective positions and shall not receive any pay, fee or allowances in any form in excess of the amount provided under subsection (1). 1956, c. 48, s. 1.</p>	<p>Duties. Secs. 12 to 20 rep. & new 1956, c. 48, s. 1.</p>
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<p>14. The Registrar shall keep an office at the City of Ottawa and the Registrar and Deputy Registrar shall reside at the City of Ottawa or within five miles thereof. 1956, c. 48, s. 1.</p>	<p>Office and residence.</p>
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<p>15. Subject to the direction of the Minister of Justice, the Registrar shall superintend the officers, clerks and employees appointed to the Court. 1956, c. 48, s. 1.</p>	<p>Functions of Registrar.</p>
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<p>16. The Registrar shall, under the supervision of the Minister of Justice, manage and control the library of the Court and the purchase of all books therefor. 1956, c. 48, s. 1.</p>	<p>Library.</p>
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<p>17. The Registrar or the Deputy Registrar, as the Minister directs, shall report and publish the judgments of the Court. 1956, c. 48, s. 1.</p>	<p>Reports.</p>
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<p>18. The Registrar has such authority to exercise the jurisdiction of a judge sitting in chambers as may be conferred upon him by general rules or orders made under this Act. 1956, c. 48, s. 1.</p>	<p>Jurisdiction as judge in chambers.</p>
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<p>19. The Deputy Registrar shall exercise and perform such of the powers and duties of the Registrar as are assigned to him by the Registrar, and may exercise and perform all the powers</p>	<p>Duties of Registrar.</p>
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and duties of the Registrar in the event that the Registrar is absent or unable to act or the office of Registrar is vacant. 1956, c. 48, s. 1.

Application
of Civil
Service Act
and
Superannua-
tion Act.

20. The provisions of the *Civil Service Act* and the *Public Service Superannuation Act*, so far as applicable, extend and apply to the Registrar and Deputy Registrar. 1956, c. 48, s. 1.

Sheriff.

21. The Sheriff of the County of Carleton, in the Province of Ontario, is *ex officio* an officer of the Court and shall perform the duties and functions of a sheriff in connection therewith. R.S., c. 35, s. 21.

BARRISTERS AND SOLICITORS

Who may
practise as
barristers.

22. All persons who are barristers or advocates in any of the provinces of Canada may practise as barristers, advocates and counsel in the Supreme Court. R.S., c. 35, s. 22.

And
solicitors.

23. All persons who are attorneys or solicitors of the superior courts in any of the provinces of Canada may practise as attorneys, solicitors and proctors in the Supreme Court. R.S., c. 35, s. 23.

Practi-
tioners to be
officers of
the Court.

24. All persons who may practise as barristers, advocates, counsel, attorneys, solicitors or proctors in the Supreme Court are officers of the Court. R.S., c. 35, s. 24.

SESSIONS AND QUORUM

Quorum of
judges.

25. Any five of the judges of the Supreme Court shall constitute a quorum and may lawfully hold the Court. R.S., c. 35, s. 25.

As to
delivery of
judgments.

26. It is not necessary for all the judges who have heard the argument in any case to be present in order to constitute the Court for delivery of judgment in that case, but in the absence of any judge, from illness or any other cause, judgment may be delivered by a majority of the judges who were present at the hearing. R.S., c. 35, s. 26.

Opinion
of absent
judge may
be read.

27. (1) Any judge who has heard the case and is absent at the delivery of judgment, may hand his opinion in writing to any judge present at the delivery of judgment, to be read or announced in open court, and then to be left with the Registrar or reporter of the Court.

(2) A judge who has resigned his office, or who has ceased to hold office under the provisions of section 9 shall, within six months thereafter, for the purposes of this section, be deemed to be absent at the delivery of judgment in any case heard by him in which judgment has not been delivered during his tenure of office. R.S., c. 35, s. 27; 1929, c. 58, s. 1.

When opinion of judge who is retired or ceases to hold office may be read.

28. (1) No judge against whose judgment an appeal is brought, or who took part in the trial of the cause or matter, or in the hearing in a court below, shall sit or take part in the hearing of or adjudication upon the proceedings in the Supreme Court.

When a judge may not sit.

(2) In any cause or matter in which a judge is unable to sit or take part in consequence of this section, any four of the other judges of the Supreme Court constitute a quorum and may lawfully hold the Court. R.S., c. 35, s. 28.

Quorum in such case.

29. Any four judges constitute a quorum and may lawfully hold the Court in cases where the parties consent to be heard before a court so composed. R.S., c. 35, s. 29.

Four judges a quorum by consent.

30. (1) Where at any time there is not a quorum of the judges of the Supreme Court available to hold or continue any session of the Court, owing to a vacancy or vacancies, or to the absence through illness or on leave or in the discharge of other duties assigned by statute or order in council, or to the disqualification of a judge or judges, the Chief Justice, or, in his absence, the senior puisne judge, may in writing request the attendance at the sittings of the Court, as an *ad hoc* judge, for such period as may be necessary, of a judge of the Exchequer Court, or, should the judges of the said court be absent from Ottawa or for any reason unable to sit, of a judge of a provincial superior court to be designated in writing by the Chief Justice or in his absence by any Acting Chief Justice or the senior puisne judge of such provincial court upon such request being made to him in writing.

Appointment of *ad hoc* judge.

(2) Unless two of the judges of the Supreme Court available fulfil the requirements of section 6, the *ad hoc* judge for the hearing of an appeal from a judgment rendered in the Province of Quebec shall be a judge of the Court of Queen's Bench or a judge of the Superior Court of that Province designated as above provided.

Quebec appeals.

(3) A duplicate of the requisition of the Chief Justice or senior puisne judge and where a judge of a provincial court is designated to act, the letter designating him shall be filed with the registrar and is conclusive evidence of the authority of the judge named therein to act under this section.

Evidence of appointment.

Duties.

(4) It is the duty of the judge whose attendance has been so requested or who has been so designated in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he possesses the powers and privileges and shall discharge the duties of a puisne judge of the Supreme Court.

Compensation.

(5) An *ad hoc* judge who attends a sittings of the Supreme Court or any conference of the judges called for the consideration of judgments in cases in which he sat, shall be paid his travelling expenses and shall receive a *per diem* allowance for living expenses of ten dollars for each day that he is necessarily absent from his place of residence, as provided by the *Judges Act*.

Delivery of judgment.

(6) In any case in which judgment is not delivered while such judge is attending the sittings of the Court or a conference of the judges, his opinion shall be delivered as is provided by section 27. R.S., c. 35, s. 30.

Admiralty appeal.

31. (1) The Court may, in any Admiralty appeal, in which it may think it expedient so to do, call in the aid of one or more assessors specially qualified and try and hear such appeal, wholly or partially with the assistance of such assessors.

(2) The remuneration, if any, to be paid to such assessors shall be determined by the Court. R.S., c. 35, s. 31.

Three sessions.

32. (1) The Supreme Court, for the purpose of hearing and determining appeals, shall hold, in each year, at the City of Ottawa, three sessions.

Dates of sessions.
Rep. & new,
R.S., 1952,
c. 335, s. 1.

(2) The first session shall begin on the fourth Tuesday in January, the second on the fourth Tuesday in April, and the third on the first Tuesday in October, in each year. R.S., c. 35, s. 32; R.S., 1952, c. 335, s. 1.

Dates may be varied.

(3) The dates in subsection (2), fixed for the beginning of each session, may be varied by the Governor in Council, or by the Court, if notice is given in the *Canada Gazette* not less than four weeks before the date that may be fixed for the beginning of any session.

Length.

(4) Each of the said sessions shall be continued until the business before the Court is disposed of. R.S., c. 35, s. 32; 1928, c. 9, s. 1; R.S., 1952, c. 335, s. 1.

Power to adjourn.

33. The Supreme Court may adjourn any session from time to time and meet again at the time appointed for the transaction of business. R.S., c. 35, s. 33.

Court may be convened at any time.

34. The Court may be convened at any time by the Chief Justice, or, in the event of his absence or illness, by the senior puisne judge, in such manner as is prescribed by the rules of Court. R.S., c. 35, s. 34.

APPELLATE JURISDICTION

35. The Supreme Court shall have, hold and exercise an appellate, civil and criminal jurisdiction within and throughout Canada. R.S., c. 35, s. 35. Jurisdiction throughout Canada.

36. Subject to sections 40 and 44, an appeal to the Supreme Court lies from a final judgment or a judgment granting a motion for a nonsuit or directing a new trial of the highest court of final resort in a province, or a judge thereof, pronounced in Appeals from final judgments.

(a) a judicial proceeding where the amount or value of the matter in controversy in the appeal exceeds ten thousand dollars, or Rep. & new, 1956, c. 48, s. 2.

(b) proceedings for or upon a writ of *habeas corpus* or *mandamus*. 1949 (2nd Sess.), c. 37, s. 2; 1956, c. 48, s. 2.

37. An appeal lies to the Supreme Court from an opinion pronounced by the highest court of final resort in a province on any matter referred to it for hearing and consideration by the Lieutenant-Governor in Council of that province whenever it has been by the statutes of that province declared that such opinion is to be deemed a judgment of the said highest court of final resort and that an appeal lies therefrom as from a judgment in an action. 1949 (2nd Sess.), c. 37, s. 2. Appeals from references by Lieutenant-Governor in Council.

38. Subject to sections 40 and 44, an appeal to the Supreme Court lies with leave of the highest court of final resort in a province from a final judgment of that court where, in the opinion of that court, the question involved in the appeal is one that ought to be submitted to the Supreme Court for decision. 1949 (2nd Sess.), c. 37, s. 2. Appeals with leave of provincial court.

39. Subject to sections 40 and 44, an appeal to the Supreme Court lies in respect of a question of law alone with leave of the highest court of final resort in a province from a final judgment of another court of that province, the judges of which are appointed by the Governor General, pronounced in a judicial proceeding where the amount or value of the matter in controversy in the appeal exceeds two thousand dollars and an appeal lies to that court of final resort, if the consent in writing of the parties or their solicitors, verified by affidavit, is filed with the Registrar of the Supreme Court and with the registrar, clerk or prothonotary of the court from which the appeal is to be taken. 1949 (2nd Sess.), c. 37, s. 2. Appeals per saltum.

40. No appeal to the Supreme Court lies under section 36, 38 or 39 from a judgment in a criminal cause, in proceedings for or upon a writ of *habeas corpus*, *certiorari* or prohibition arising out of a criminal charge, or in proceedings for or upon a writ of *habeas corpus* arising out of a claim for extradition made under a treaty. 1949 (2nd Sess.), c. 37, s. 2. Exceptions.

Appeals
with leave
of Supreme
Court.

Rep. & new,
1956,
c. 48, s. 3.

41. (1) Subject to subsection (3), an appeal lies to the Supreme Court with leave of that Court from any final or other judgment of the highest court of final resort in a province, or a judge thereof, in which judgment can be had in the particular case sought to be appealed to the Supreme Court, whether or not leave to appeal to the Supreme Court has been refused by any other court.

When leave
granted.

(2) Leave to appeal under this section may be granted during the period fixed by section 64 or within thirty days thereafter or within such further extended time as the Supreme Court or a judge may either before or after the expiry of the said thirty days fix or allow.

Appeals in
respect of
offences.

(3) No appeal to the Supreme Court lies under this section from the judgment of any court acquitting or convicting or setting aside or affirming a conviction or acquittal of an indictable offence or, except in respect of a question of law or jurisdiction, of an offence other than an indictable offence.

Extending
time for
allowing
appeal.

(4) Whenever the Supreme Court has granted leave to appeal the Supreme Court or a judge may, notwithstanding anything in this Act, extend the time within which the appeal may be allowed. 1949 (2nd Sess.), c. 37, s. 2; 1956, c. 48, s. 3.

Appeals
under other
Acts.

42. Notwithstanding anything in this Act the Supreme Court has jurisdiction as provided in any other Act conferring jurisdiction. 1949 (2nd Sess.), c. 37, s. 2.

Amount or
value in
controversy.
Rep. & new,
1956,
c. 48, s. 4.

43. Where the right to appeal is dependent on the amount or value of the matter in controversy the amount or value may be proved by affidavit, and it shall not include interest subsequent to the day on which the judgment to be appealed from was pronounced or any costs. 1956, c. 48, s. 4.

No appeal
from discre-
tionary
orders.

44. (1) No appeal lies to the Supreme Court from a judgment or order made in the exercise of judicial discretion except in proceedings in the nature of a suit or proceeding in equity originating elsewhere than in the Province of Quebec and except in *mandamus* proceedings.

Exception.
Ad. 1956,
c. 48, s. 5.

(2) This section does not apply to an appeal under section 41. 1949 (2nd Sess.), c. 37, s. 2; 1956, c. 48, s. 5.

Quorum on
application
for leave.
New, 1956,
c. 48, s. 6.

44A. Where any Act authorizes an appeal to the Supreme Court of Canada with leave of that Court, any three of the judges of the Court constitute a quorum for the purpose of hearing and disposing of the application for leave to appeal, except that in the case of an application for leave to appeal from the judgment of a court

(a) affirming or quashing a conviction of an offence punishable by death, or

- (b) allowing or dismissing an appeal against an acquittal of an offence punishable by death, including an acquittal in respect of a principal offence where the accused has been convicted of an offence included in the principal offence,

any five of the judges of the Court constitute a quorum. 1956, c. 48, s. 6.⁽²⁾

JUDGMENTS

45. The Court may quash proceedings in cases brought before it in which an appeal does not lie, or whenever such proceedings are taken against good faith. R.S., c. 35, s. 45. Quashing proceedings in certain cases.

46. The Court may dismiss an appeal or give the judgment and award the process or other proceedings that the court, whose decision is appealed against, should have given or awarded. R.S., c. 35, s. 46. Appeal may be dismissed or judgment given.

47. On any appeal, the Court may, in its discretion, order a new trial, if the ends of justice seem to require it, although such new trial is deemed necessary upon the ground that the verdict is against the weight of evidence. R.S., c. 35, s. 47. New trial may be ordered.

COSTS

48. The Court may, in its discretion, order the payment of the costs of the court appealed from and of the court of original jurisdiction, and also of the appeal, or any part thereof, as well when the judgment appealed from is varied or reversed as when it is affirmed. R.S., c. 35, s. 48. Payment of costs.

AMENDMENTS

49. At any time during the pendency of an appeal before the Court, the Court may, upon the application of any of the parties, or without any such application make all such amendments as are necessary for the purpose of determining the appeal, or the real question or controversy between the parties as disclosed by the pleadings, evidence or proceedings. R.S., c. 35, s. 49. Necessary amendments may be made.

(2) Section 21 of c. 48 of the Statutes of 1956 reads as follows:

“21. Section 44A of the *Supreme Court Act*, as enacted by this Act, applies to all applications for leave to appeal heard by the Supreme Court of Canada after the time this Act comes into force, whether the application was made before or after that time; and in the case of any application for leave to appeal made before that time under s. 597 or 598 of the *Criminal Code*, those sections of the *Criminal Code* shall, for the purposes of the said s. 44A, be deemed to have authorized an appeal to the Supreme Court of Canada with leave of that Court.”

At whose
instance.

50. An amendment referred to in section 49 may be made, whether the necessity for the same is or is not occasioned by the defect, error, act, default or neglect of the party applying to amend. R.S., c. 35, s. 50.

Conditions
of amend-
ment.

51. Every amendment shall be made upon such terms as to payment of costs, postponing the hearing or otherwise as to the Court seems just. R.S., c. 35, s. 51.

INTEREST

Interest to
be allowed.

52. If on appeal against any judgment, the Court affirms such judgment, interest shall be allowed by the Court for such time as execution has been delayed by the appeal. R.S., c. 35, s. 52.

CERTIFICATE OF JUDGMENT

Judgment
to be carried
out by court
below.

53. The judgment of the Court in appeal shall be certified by the Registrar to the proper officer of the court of original jurisdiction, who shall thereupon make all proper and necessary entries thereof; and all subsequent proceedings may be taken thereupon as if the judgment had been given or pronounced in the said last mentioned court. R.S., c. 35, s. 53.

JUDGMENT FINAL AND CONCLUSIVE

Judgment
to be final.

54. (1) The Supreme Court shall have, hold and exercise exclusive ultimate appellate civil and criminal jurisdiction within and for Canada; and the judgment of the Court shall, in all cases, be final and conclusive.

No appeals
to Her
Majesty
in Council.

(2) Notwithstanding any royal prerogative or anything contained in any Act of the Parliament of the United Kingdom or any Act of the Parliament of Canada or any Act of the legislature of any province of Canada or any other statute or law, no appeal lies or shall be brought from or in respect of the judgment of any court, judge or judicial officer in Canada to any court of appeal, tribunal or authority by which, in the United Kingdom, appeals or petitions to Her Majesty in Council may be ordered to be heard.

Repeal of
U.K. Acts.

(3) The *Judicial Committee Act, 1833*, chapter 41 of the Statutes of the United Kingdom of Great Britain and Ireland, 1833, and the *Judicial Committee Act, 1844*, chapter 69 of the Statutes of the United Kingdom of Great Britain and Ireland, 1844, and all orders, rules or regulations made under the said Acts are hereby repealed in so far as the same are part of the law of Canada. 1949 (2nd Sess.), c. 37, s. 3.⁽³⁾

(3) See Note (1) on the first page of the present Act.

SPECIAL JURISDICTION

References by Governor in Council

55. (1) Important questions of law or fact touching
- (a) the interpretation of the *British North America Acts*;
 - (b) the constitutionality or interpretation of any Dominion or provincial legislation;
 - (c) the appellate jurisdiction as to educational matters, by the *British North America Act, 1867*, or by any other Act or law vested in the Governor in Council;
 - (d) the powers of the Parliament of Canada, or of the legislatures of the provinces, or of the respective governments thereof, whether or not the particular power in question has been or is proposed to be exercised; or
 - (e) any other matter, whether or not in the opinion of the Court *ejusdem generis* with the foregoing enumerations, with reference to which the Governor in Council sees fit to submit any such question;

Governor may refer certain questions for opinion.

may be referred by the Governor in Council to the Supreme Court for hearing and consideration; and any question touching any of the matters aforesaid, so referred by the Governor in Council, shall be conclusively deemed to be an important question.

(2) Where a reference is made to the Court under subsection (1) it is the duty of the Court to hear and consider it, and to answer each question so referred; and the Court shall certify to the Governor in Council, for his information, its opinion upon each such question, with the reasons for each such answer; and such opinion shall be pronounced in like manner as in the case of a judgment upon an appeal to the Court; and any judge who differs from the opinion of the majority shall in like manner certify his opinion and his reasons.

Opinion of Court.

(3) Where the question relates to the constitutional validity of any Act that has heretofore been or is hereafter passed by the legislature of any province, or of any provision in any such Act, or in case, for any reason, the government of any province has any special interest in any such question, the attorney general of such province shall be notified of the hearing, in order that he may be heard if he thinks fit.

Notice to be given to provinces interested.

(4) The Court has power to direct that any person interested, or, where there is a class of persons interested, any one or more persons as representatives of such class, shall be notified of the hearing upon any reference under this section, and such persons are entitled to be heard thereon.

Notice to interested persons.

Appoint-
ment of
counsel by
Court.

(5) The Court may, in its discretion, request any counsel to argue the case as to any interest that is affected and as to which counsel does not appear, and the reasonable expenses thereby occasioned may be paid by the Minister of Finance out of any moneys appropriated by Parliament for expenses of litigation. R.S., c. 35, s. 55; 1956, c. 48, s. 7.⁽⁴⁾

References by Senate or House of Commons

Report
upon any
private bill
or petition.

56. The Court, or any two of the judges thereof, shall examine and report upon any private bill or petition for a private bill presented to the Senate or House of Commons, and referred to the Court under any rules or orders made by the Senate or House of Commons. R.S., c. 35, s. 56.

Habeas Corpus

Concurrent
jurisdiction
as to
*habeas
corpus*
matters.

57. (1) Every judge of the Court, except in matters arising out of any claim for extradition under any treaty, has concurrent jurisdiction with the courts or judges of the several provinces, to issue the writ of *habeas corpus ad subjiciendum*, for the purpose of an inquiry into the cause of commitment in any criminal case under any Act of the Parliament of Canada.

Appeal to
the Court.

(2) If the judge refuses the writ or remands the prisoner, an appeal lies to the Court. R.S., c. 35, s. 57.

Powers of
the Court
in such
cases.

58. In any *habeas corpus* matter before a judge of the Supreme Court, or on any appeal to the Supreme Court in any *habeas corpus* matter, the Court or judge has the same power to bail, discharge or commit the prisoner or person, or to direct him to be detained in custody or otherwise to deal with him as any court, judge or justice of the peace having jurisdiction in any such matters in any province of Canada. R.S., c. 35, s. 58.

Prisoner
may be
brought
into court.

59. (1) On any appeal to the Court in any *habeas corpus* matter the Court may by writ or order direct that any prisoner or person on whose behalf such appeal is made shall be brought before the Court.

Prisoner
need not
be present
in court.

(2) Unless the Court so direct it is not necessary for such prisoner or person to be present in court but he shall remain in the charge or custody to which he was committed or had been remanded, or in which he was at the time of giving the notice of appeal, unless at liberty on bail, by order of a judge of the court that refused the application or of a judge of the Supreme Court. R.S., c. 35, s. 59.

(4) Subsection (6) of s. 55 was repealed by s. 7 of c. 48 of the Statutes of 1956. It had become obsolete on account of the enactment of s. 54 in 1949.

This subsection reads as follows:

“(6) The opinion of the Court upon any such reference, although advisory only, shall, for all purposes of appeal to Her Majesty in Council, be treated as a final judgment of the said Court between parties.”

60. An appeal to the Supreme Court in any *habeas corpus* matter shall be heard at an early day, whether in or out of the prescribed sessions of the Court. R.S., c. 35, s. 60.

When such appeals shall be heard.

Certiorari

61. A writ of *certiorari* may, by order of the Court or a judge thereof, issue out of the Supreme Court to bring up any papers or other proceedings had or taken before any court, judge or justice of the peace, and that are considered necessary with a view to any inquiry, appeal or other proceeding had or to be had before the Court. R.S., c. 35, s. 61.

Writ of *certiorari*.

Cases removed from Provincial Courts

62. (1) Where the legislature of any province of Canada has passed an Act agreeing and providing that the Supreme Court has jurisdiction in any of the following cases, that is to say:

Powers to be exercised with consent of provincial legislatures.

(a) of suits, actions or proceedings in which the parties thereto by their pleading have raised the question of the validity of an Act of the Parliament of Canada, when in the opinion of a judge of the court in which the same are pending such question is material;

As to validity of Act of Parliament.

(b) of suits, actions or proceedings in which the parties thereto by their pleadings have raised the question of the validity of an Act of the legislature of such province, when in the opinion of a judge of the court in which the same are pending such question is material;

As to validity of a provincial Act.

the judge who has decided that such question is material shall at the request of the parties, and may without such request, if he thinks fit, in any suit, action or proceeding within the class or classes of cases in respect of which such Act so agreeing and providing has been passed, order the case to be removed to the Supreme Court for the decision of such question, whatever may be the value of the matter in dispute, and the case shall be removed accordingly.

Case removed to Supreme Court.

(2) The Supreme Court shall thereupon hear and determine the question so raised and shall remit the case with a copy of its judgment thereon to the court or judge whence it came to be then and there dealt with as to justice appertains.

Decision arrived at to be sent to Court.

(3) There shall be no further appeal to the Supreme Court on any point decided by it in any such case, nor, unless the value of the matter in dispute exceeds five hundred dollars, on any other point in such case.

No further appeal to Supreme Court.

(4) This section applies only to cases of a civil nature R.S., c. 35, s. 62.

Applies only to civil cases.

PROCEDURE IN APPEALS

Proceedings
in appeal.

63. Proceedings in appeals shall, when not otherwise provided for by this Act, or by the Act providing for the appeal, or by the general rules and orders of the Supreme Court, be as nearly as possible in conformity with the present practice of the Judicial Committee of Her Majesty's Privy Council. R.S., c. 35, s. 63.

When
appeal shall
be brought.

64. (1) Except as otherwise provided, every appeal shall be brought within sixty days from the signing or entry or pronouncing of the judgment appealed from, but the months of July and August shall be excluded in the computation of the said sixty days.

Limited
appeal.
Rep. & new,
1956,
c. 48, s. 8.

(2) The appellant may appeal from the whole or any part of any judgment or order, and if he intends to limit the appeal, the notice of appeal shall so specify. R.S., c. 35, s. 64, 1956, c. 48, s. 8.

Extension
of time for
appeal.
Rep. & new,
1956,
c. 48, s. 9.

65. (1) Notwithstanding anything in this Act, the court proposed to be appealed from or any judge thereof or the Supreme Court of Canada or any judge thereof may under special circumstances, either before or after the expiry of the time prescribed by section 64, extend the time within which the appeal may be brought.

On terms.

(2) In such case, the court or judge shall impose such terms as to security or otherwise as seems proper under the circumstances.

No applica-
tion to
election
cases.

(3) This section does not apply to any appeal in the case of an election petition.

Appeals
*in forma
pauperis.*

(4) Notwithstanding anything in this Act a judge of the Supreme Court may, on an application for leave to appeal *in forma pauperis*, allow an appeal by giving the applicant leave to serve notice of appeal although the time prescribed by section 64 has expired. R.S., c. 35, s. 66; 1951, c. 61, s. 1; 1956, c. 48, s. 9.

Procedure
on appeal.
Rep. & new,
1956,
c. 48, s. 10.

66. (1) An appeal shall be brought by

- (a) serving a notice of appeal on all parties directly affected, and
- (b) depositing with the Registrar security to the extent of five hundred dollars, to the satisfaction of the court proposed to be appealed from or a judge thereof or to the satisfaction of the Supreme Court or a judge thereof, that the appellant will effectually prosecute the appeal and pay such costs and damages as may be awarded against him by the Supreme Court,

within the time prescribed by section 64 or allowed under section 65.

(2) Whenever error in law is alleged, the proceedings in the Supreme Court shall be in the form of an appeal.

Where error
alleged.

(3) The notice of appeal with evidence of service thereof shall be filed with the Registrar of the Supreme Court and a copy of the notice shall be filed with the clerk or other proper officer of the court appealed from. 1956, c. 48, s. 10.

Service and filing of notice of appeal.

67. The appeal shall be upon a case to be stated by the parties, or, in the event of difference, to be settled by the court appealed from, or a judge thereof, and the case shall set forth the judgment objected to and so much of the pleadings, evidence, affidavits and documents as is necessary to raise the question for the decision of the Court; but the Court may, in its discretion, on special grounds, and by special leave, receive further evidence upon any question of facts, such evidence to be taken in the manner authorized by this Act, either by oral examination in Court, by affidavit, or by deposition as the Court may direct. R.S., c. 35, s. 68; 1928, c. 9, s. 3.

Appeal
to be on a
stated
case.

Further
evidence
upon
question
of fact.

68. The clerk or other proper officer of the court appealed from shall, upon payment to him of the proper fees and expenses of transmission, transmit the case, as soon as may be after service upon him of the notice of appeal, to the Registrar, and further proceedings shall thereupon be had according to the practice of the Supreme Court. 1956, c. 48, s. 11.

Transmis-
sion of
record.
Rep. & new,
1956,
c. 48, s. 11.

69. The provisions of this Act requiring the deposit of security for costs do not apply to appeals by or on behalf of the Crown or in election cases, in cases in the Exchequer Court, in criminal cases or in proceedings for or upon a writ of *habeas corpus*. 1956, c. 48, s. 12.

Exceptions.
Rep. & new,
1956,
c. 48, s. 12.

Stay of Execution

1956,
c. 48, s. 13.

70. (1) Upon filing and serving the notice of appeal and depositing security as required by section 66, execution shall be stayed in the original cause, except that

Stay of
execution.
Rep. & new,
1956,
c. 48, s. 14.

(a) where the judgment appealed from directs an assignment or delivery of documents or personal property, the execution of the judgment shall not be stayed, until the things directed to be assigned or delivered have been brought into court, or placed in the custody of such officer or receiver as the court appoints, nor until security has been given to the satisfaction of the court appealed from, or of a judge thereof, in such sum as the court or judge directs, that the appellant will obey the order or judgment of the Supreme Court;

Exceptions.
Delivery of
documents
or personal
property.

Execution
and deposit
of convey-
ance.

(b) where the judgment appealed from directs the execution of a conveyance or any other instrument, the execution of the judgment shall not be stayed, until the instrument has been executed and deposited with the proper officer of the court appealed from, to abide the order or judgment of the Supreme Court;

Where
judgment
directs sale,
etc., of real
property.

(c) where the judgment appealed from directs the sale or delivery of possession of real property, chattels real or immovables, the execution of the judgment shall not be stayed, until security has been entered into to the satisfaction of the court appealed from, or a judge thereof, and in such amount as the said last mentioned court or judge directs, that during the possession of the property by the appellant he will not commit, or suffer to be committed, any waste on the property, and that if the judgment is affirmed, he will pay the value of the use and occupation of the property from the time the appeal is brought until delivery of possession thereof, and also, if the judgment is for the sale of property and the payment of a deficiency arising from the sale, that the appellant will pay the deficiency; and

Where
judgment
orders
payment
of money.

(d) where the judgment appealed from directs the payment of money, either as a debt or for damages or costs, the execution of the judgment shall not be stayed, until the appellant has given security to the satisfaction of the court appealed from, or of a judge thereof, that if the judgment or any part thereof is affirmed, the appellant will pay the amount thereby directed to be paid, or the part thereof as to which the judgment is affirmed, if it is affirmed only as to part, and all damages awarded against the appellant on such appeal.

Where
the court
appealed
from is a
court of
appeal.

(2) Where the court appealed from is a court of appeal, and the assignment or conveyance, document, instrument, property or thing as aforesaid, has been deposited in the custody of the proper officer of the court in which the cause originated, the consent of the party desiring to appeal to the Supreme Court, that it shall so remain to abide the judgment of the Supreme Court, is binding on him and shall be deemed a compliance with the requirements in that behalf of this section.

As to
instrument.
Rep. & new,
1956,
c. 48, s. 15.

(3) In any case in which execution may be stayed on the giving of security under this section, the security may be given by the same instrument whereby the security prescribed in section 66 is given. R.S., c. 35, s. 71; 1956, c. 48, ss. 14, 15.

Fiat to
sheriff when
security
deposited.
Rep. & new,
1956,
c. 48, s. 16.

71. (1) When security has been deposited as required by section 66, any judge of the court appealed from may issue his fiat to the sheriff to whom any execution on the judgment has issued to stay the execution and the execution shall be thereby stayed whether a levy has been made under it or not.

(2) Where the court appealed from is a court of appeal, and execution has been already stayed in the case, the stay of execution continues without any new fiat, until the decision of the appeal by the Supreme Court.

Where the court appealed from is one of appeal.

(3) Unless a judge of the court appealed from otherwise orders no poundage shall be allowed against the appellant, upon any judgment appealed from, on which any execution is issued before the judge's fiat to stay the execution is obtained. R.S., c. 35, s. 72; 1956, c. 48, s. 16.

Poundage.

72. Where at the time of the receipt by the sheriff of the fiat, or of a copy thereof, the money has been made or received by him, but not paid over to the party who issued the execution, the party appealing may demand back from the sheriff the amount made or received under the execution, or so much thereof as is in his hands not paid over, and in default of payment by the sheriff, upon such demand, the party appealing may recover the same from him in an action for money had and received, or by means of an order or rule of the court appealed from. R.S., c. 35, s. 73.

Money levied and not paid over before fiat to be repaid.

73. Where the judgment appealed from directs the delivery of perishable property, the court appealed from, or a judge thereof, may order the property to be sold and the proceeds to be paid into court, to abide the judgment of the Supreme Court. R.S., c. 35, s. 74.

Perishable property.

Discontinuance of Proceedings

74. (1) An appellant may discontinue his proceedings by giving to the respondent a notice entitled in the Supreme Court and in the cause, and signed by the appellant, his attorney or solicitor, stating that he discontinues such proceedings.

By notice.

(2) Upon such notice being given, the respondent is at once entitled to the costs of and occasioned by the proceedings in appeal, and may, in the court of original jurisdiction, either sign judgment for such costs or obtain an order from such court, or a judge thereof, for their payment, and may take all further proceedings in that court as if no appeal had been brought. R.S., c. 35, s. 75.

Respondent then entitled to costs.

Consent to Reversal of Judgment

75. A respondent may consent to the reversal of the judgment appealed against, by giving to the appellant a notice entitled in the Supreme Court and in the cause, and signed by the respondent, his attorney or solicitor, stating that he consents to the reversal of the judgment, and thereupon the Court, or any judge thereof, shall pronounce judgment of reversal as of course. R.S., c. 35, s. 76.

Consent to reversal.

Dismissal for Delay

Dismissal
for delay
to proceed.

76. (1) Where an appellant unduly delays to prosecute his appeal, or fails to bring the appeal on to be heard at the first session of the Supreme Court, after the appeal is ripe for hearing, the respondent may, on notice to the appellant, move the Supreme Court, or a judge thereof in chambers, for the dismissal of the appeal.

Order.

(2) Such order shall thereupon be made as the Court or judge deems just. R.S., c. 35, s. 77.

Death of Parties

Death of
one of
several
appellants.

77. In the event of the death of one of several appellants, pending the appeal to the Supreme Court, a suggestion may be filed of his death, and the proceedings may thereupon be continued at the suit of and against the surviving appellant, as if he were the sole appellant. R.S., c. 35, s. 78.

Of the sole
appellant or
of all the
appellants.

78. (1) In the event of the death of a sole appellant, or of all the appellants, the legal representative of the sole appellant, or of the last surviving appellant, may, by leave of the Court or a judge, file a suggestion of the death, and that he is such legal representative, and the proceedings may thereupon be continued at the suit of and against such legal representative as the appellant.

If no
suggestion.

(2) If no such suggestion is made, the respondent may proceed to an affirmance of the judgment, according to the practice of the Court, or take such other proceedings as he is entitled to. R.S., c. 35, s. 79.

Death of
one of
several
respondents.

79. In the event of the death of one of several respondents, a suggestion may be filed of such death, and the proceedings may be continued against the surviving respondents. R.S., c. 35, s. 80.

If sugges-
tion of
death
untrue.

80. A suggestion of the death of one of several appellants or of a sole appellant or of all the appellants or of one of several respondents, if untrue, may on motion be set aside by the Court or a judge. R.S., c. 35, s. 81.

Death of
sole
respondent
or all
respondents.

81. In the event of the death of a sole respondent, or of all the respondents, the appellant may proceed, upon giving one month's notice of the appeal and of his intention to continue the same, to the representative of the deceased party, or if no such notice can be given, then upon such notice to the parties interested as a judge of the Supreme Court directs. R.S., c. 35, s. 82.

82. In the event of the death of a sole plaintiff or defendant before the judgment of the court in which an action or an appeal is pending is delivered, and if such judgment is against the deceased party, his legal representatives, on entering a suggestion of the death, are entitled to proceed with and prosecute an appeal in the Supreme Court, in the same manner as if they were the original parties to the suit. R.S., c. 35, s. 83.

Death of party when case *en délibéré* and judgment is against deceased.

83. In the event of the death of a sole plaintiff or sole defendant before the judgment of the court in which an action or an appeal is pending is delivered, and if such judgment is in favour of such deceased party, the other party, upon entering a suggestion of the death is entitled to prosecute an appeal to the Supreme Court against the legal representatives of such deceased party, but the time limited for appealing shall not run until such legal representatives are appointed. R.S., c. 35, s. 84.

Death of party when cases *en délibéré* and judgment is in favour of deceased.

ENTRY OF CAUSES

84. Unless otherwise ordered by the Chief Justice or one of the puisne judges at his direction:

- (a) the appeals set down for hearing shall be entered by the Registrar on a list divided into five parts, and numbered as follows: Number one, Election Cases; Number two, Western Provinces Cases; Number three, Atlantic Provinces Cases; Number four, Quebec Province Cases; Number five, Ontario Province Cases; and the Registrar shall enter all Election Appeals on part numbered one, all appeals from the Yukon Territory, the Northwest Territories and the Provinces of British Columbia, Alberta, Saskatchewan and Manitoba on part numbered two, all appeals from the Provinces of Newfoundland, Nova Scotia, New Brunswick and Prince Edward Island on part numbered three, all appeals from the Province of Quebec on part numbered four, and all appeals from the Province of Ontario on part numbered five; and
- (b) the appeals so entered shall be heard and disposed of in the order in which they are entered. 1956, c. 48, s. 17.

Entry of appeals on list and order of hearing.
Rep. & new, 1956, c. 48, s. 17.

EVIDENCE

85. All persons authorized to administer affidavits to be used in any of the superior courts of any province, may administer oaths, affidavits and affirmations in such province to be used in the Supreme Court. R.S., c. 35, s. 86.

Affidavits.

86. (1) The Governor in Council may, by commission, from time to time, empower such persons as he thinks necessary, within or out of Canada, to administer oaths, and take and receive affidavits, declarations and affirmations in or concerning any proceeding had or to be had in the Supreme Court.

Commissioners may be appointed.

Effect of
affidavits.

(2) Every such oath, affidavit, declaration or affirmation so taken or made is as valid and of the like effect, to all intents, as if it had been administered, taken, sworn, made or affirmed before the Court or before any judge or competent officer thereof in Canada.

Style of
commis-
sioners.

(3) Every commissioner so empowered shall be styled "a commissioner for administering oaths in the Supreme Court of Canada". R.S., c. 35, s. 87.

How
affidavits,
etc., may
be made
out of
Canada.

87. Any oath, affidavit, affirmation or declaration concerning any proceeding had or to be had in the Supreme Court administered, sworn, affirmed or made out of Canada is as valid and of like effect to all intents as if it had been administered, sworn, affirmed or made before a commissioner appointed under this Act, if it is so administered, sworn, affirmed or made out of Canada before

- (a) a commissioner authorized to take affidavits to be used in Her Majesty's High Court of Justice in England.
 - (b) a notary public and certified under his hand and official seal,
 - (c) a mayor or chief magistrate of any city, borough, or town corporate in Great Britain or Ireland, or in any colony or possession of Her Majesty out of Canada, or in any foreign country, and certified under the common seal of such city, borough, or town corporate,
 - (d) a judge of any court of superior jurisdiction in any colony or possession of Her Majesty, or dependency of the Crown out of Canada, or
 - (e) a consul, vice-consul, acting consul, pro-consul or consular agent of Her Majesty exercising his functions in any foreign place and certified under his official seal.
- R.S., c. 35, s. 88.

No proof
required of
signature
or seal of
commis-
sioner.

88. Every document purporting to have affixed, imprinted or subscribed thereon or thereto the signature of a

- (a) commissioner appointed under this Act,
- (b) person authorized to take affidavits to be used in any of the superior courts of any province,
- (c) commissioner authorized to receive affidavits to be used in Her Majesty's High Court of Justice in England,
- (d) notary public under his official seal,
- (e) mayor or chief magistrate of any city, borough or town corporate in Great Britain or Ireland, or in any colony or possession of Her Majesty out of Canada, or in a foreign country, under the common seal of the corporation,

(f) judge of any court of superior jurisdiction in any colony or possession of Her Majesty, or dependency of the Crown out of Canada under the seal of the court of which he is such judge, or

(g) consul, vice-consul, acting consul, pro-consul or consular agent of Her Majesty exercising his functions in any foreign place under the official seal,

in testimony of any oath, affidavit, affirmation or declaration having been administered, sworn, affirmed or made by or before him, shall be admitted in evidence without proof of the signature or seal or official character of such person. R.S., c. 35, s. 89.

89. No informality in the heading or other formal requisites of any affidavit, declaration or affirmation, made or taken before any person under any provision of this or any other Act, shall be an objection to its reception in evidence in the Supreme Court, if the court or judge before whom it is tendered thinks proper to receive it; and if the same is actually sworn to, declared or affirmed by the person making it before any person duly authorized thereto, and is received in evidence, no such informality shall be set up to defeat an indictment for perjury. R.S., c. 35, s. 90.

Informality not to be an objection.

Discretion of judge.

90. (1) If any party to any proceeding had or to be had in the Supreme Court is desirous of having therein the evidence of any person, whether a party or not, or whether resident within or out of Canada, the Court or any judge thereof, if in its or his opinion it is, owing to the absence, age or infirmity, or the distance of the residence of such person from the place of trial, or the expense of taking his evidence otherwise, or for any other reason, convenient so to do, may, upon the application of such party, order the examination of any such person upon oath, by interrogatories or otherwise, before the Registrar of the Court, or any commissioner for taking affidavits in the Court, or any other person or persons to be named in such order, or may order the issue of a commission under the seal of the Court for the examination.

Examination on interrogatories or by commission of persons who cannot conveniently attend.

(2) The Court or a judge may, by the same or any subsequent order, give all such directions touching the time, place and manner of the examination, the attendance of the witnesses and the production of papers thereat, and all matters connected therewith, as appears reasonable. R.S., c. 35, s. 91.

Court may give directions.

91. Every person authorized to take the examination of any witness pursuant to this Act, shall take such examination upon the oath of the witness, or upon affirmation, in any case in which affirmation instead of oath is allowed by law. R.S., c. 35, s. 92.

Duty of persons taking such examination.

Further examination may be ordered.

92. The Supreme Court, or a judge thereof, may if it is considered for the ends of justice expedient so to do, order the further examination, before either the Court or a judge thereof, or other person, of any witness, and if the party on whose behalf the evidence is tendered neglects or refuses to obtain such further examination, the Court or judge, in its or his discretion, may decline to act on the evidence. R.S., c. 35, s. 93.

Penalty for non-compliance.

Notice to adverse party.

93. Such notice of the time and place of examination as is prescribed in the order, shall be given to the adverse party. R.S., c. 35, s. 94.

Neglect or refusal to attend to be treated as contempt of court.

94. Where an order is made for the examination of a witness, and a copy of the order, together with a notice of the time and place of attendance, signed by the person or one of the persons to take the examination has been duly served on the witness within Canada, and he has been tendered his legal fees for attendance and travel, his refusal or neglect to attend for examination or to answer any proper question put to him on examination, or to produce any paper that he has been notified to produce shall be deemed a contempt of court and may be punished by the same process as other contempts of court; but he shall not be compelled to produce any paper that he would not be compelled to produce, or to answer any question that he would not be bound to answer in court. R.S., c. 35, s. 95.

Effect of consent of parties to examination of witness.

95. Where the parties in any case pending in the Court consent, in writing, that a witness may be examined within or out of Canada by interrogatories or otherwise, the consent and the proceedings had thereunder are as valid in all respects as if an order had been made and the proceedings had thereunder. R.S., c. 35, s. 96.

Return of examinations taken in Canada.

Use thereof.

96. All examinations taken in Canada pursuant to this Act shall be returned to the Court; and the depositions, certified under the hands of the person or one of the persons taking the same, may, without further proof, be used in evidence, saving all just exceptions. R.S., c. 35, s. 97.

And of those taken out of Canada.

Use thereof.

97. All examinations taken out of Canada pursuant to this Act shall be proved by affidavit of the due taking of the examinations, sworn before some commissioner or other person authorized under this or any other Act to take such affidavit, at the place where such examination has been taken, and shall be returned to the Court; and the depositions so returned, together with such affidavit, and the order or commission, closed under the hand and seal of the person or one of the persons authorized to take the examination, may, without further proof, be used in evidence, saving all just exceptions. R.S., c. 35, s. 98.

98. Where any examination has been returned, any party may give notice of such return, and no objection to the examination being read has effect, unless taken within the time and in the manner prescribed by general order. R.S., c. 35, s. 99.

Reading of
examina-
tion.

GENERAL

99. (1) The process of the Court runs throughout Canada, and shall be tested in the name of the Chief Justice, or in case of a vacancy in the office of chief justice, in the name of the senior puisne judge of the Court, and shall be directed to the sheriff of any county or other judicial division into which any province is divided.

Process of
the Court.

(2) The sheriffs of the said respective counties or divisions are *ex officio* officers of the Supreme Court, and shall perform the duties and functions of sheriffs in connection with the Court.

Officers of
the Court.

(3) In any case where the sheriff is disqualified, the process shall be directed to any of the coroners of the county or district. R.S., c. 35, s. 100.

Coroners.

100. Every commissioner for administering oaths in the Supreme Court, who resides within Canada, may take and receive acknowledgments or recognizances of bail, and all other recognizances in the Supreme Court. R.S., c. 35, s. 101.

Further
powers of
commis-
sioners.

101. An order in the Supreme Court for payment of money, whether for costs or otherwise, may be enforced by such writs of execution as the Court prescribes. R.S., c. 35, s. 102.

Enforce-
ment of
orders for
payment
of money.

102. No attachment as for contempt shall issue in the Supreme Court for the non-payment of money only. R.S., c. 35, s. 103.

No attach-
ment for
non-pay-
ment only.

103. (1) The judges of the Supreme Court, or any five of them, may, from time to time, make general rules and orders

Judges may
make rules
and orders.

(a) for regulating the procedure of and in the Supreme Court, and the bringing of cases before it from courts appealed from or otherwise, and for the effectual execution and working of this Act, and the attainment of the intention and objects thereof;

Regulating
procedure.

(b) for allowing appeals *in forma pauperis* by leave, notwithstanding the provisions of this or any other Act requiring the giving of security for costs, and for allowing a respondent leave to defend *in forma pauperis*;

*In forma
pauperis.*
Rep. & new,
1956,
c. 48, s. 18.

(c) for empowering the Registrar to do any such thing and transact any such business as is specified in the rules or orders, and to exercise any authority and jurisdiction in respect of the same as is now or may be hereafter done, transacted or exercised by a judge of the Court sitting in chambers in virtue of any statute or custom or by the practice of the Court;

Conferring
jurisdiction
upon the
Registrar.

For fixing fees and costs.	(d) for fixing the fees and costs to be taxed and allowed to, and received and taken by, and the rights and duties of the officers of the Court;
For and against Crown.	(e) for awarding and regulating costs in such Court in favour of and against the Crown, as well as the subject; and
In references by the Governor in Council.	(f) with respect to matters coming within the jurisdiction of the Court, in regard to references to the Court by the Governor in Council, and in particular with respect to investigations of questions of fact involved in any such reference.
Extent of such rules and orders.	(2) Such rules and orders may extend to any matter of procedure or otherwise not provided for by this Act, but for which it is found necessary to provide, in order to ensure the proper working of this Act and the better attainment of the objects thereof.
Force of such rules and orders.	(3) All such rules as are not inconsistent with the express provisions of this Act have force and effect as if herein enacted.
Copies thereof for Parliament.	(4) Copies of all such rules and orders shall be laid before both Houses of Parliament at the session next after the making thereof. R.S., c. 35, s. 104; 1949 (2nd Sess.), c. 37, s. 6; 1951, c. 61, s. 2; 1956, c. 48 s. 18.
How costs to the Crown shall be paid.	104. Any moneys or costs awarded to the Crown shall be paid to the Minister of Finance, and he shall pay out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, any moneys or costs awarded to any person against the Crown. R.S., c. 35, s. 105.
Crown entitled to costs notwithstanding solicitor, etc., is salaried officer.	105. In any proceeding to which Her Majesty is a party, either as represented by the Attorney General of Canada or otherwise, costs adjudged to Her Majesty shall not be disallowed or reduced upon taxation merely because the solicitor or the counsel who earned such costs, or in respect of whose services the costs are charged, was a salaried officer of the Crown performing such services in the discharge of his duty and remunerated therefor by his salary, or for that or any other reason not entitled to recover any costs from the Crown in respect of the services so rendered, and the costs recovered by or on behalf of Her Majesty in any such case shall be paid into the Consolidated Revenue Fund. R.S., c. 35, s. 106.
Costs to be paid into Consolidated Revenue Fund.	
Fees payable by stamps.	106. (1) All fees payable to the Registrar under this Act shall be paid by means of stamps, issued for that purpose by the Minister of National Revenue, who shall regulate the sale thereof.
Proceeds, to whom paid.	(2) The proceeds of the sale of such stamps shall be paid into the Consolidated Revenue Fund of Canada. R.S., c. 35, s. 107.

107. Notwithstanding anything in section 3 of *An Act to amend the Supreme Court Act*, chapter 37 of the Statutes of 1949 (second session), an appeal from or in respect of a judgment pronounced in

Rights
saved.

(a) a judicial proceeding that was commenced prior to the 23rd day of December, 1949, or

(b) a reference made by the Governor in Council or by the Lieutenant-Governor in Council of a province prior to the 23rd day of December, 1949,

lies or may be brought as if that section had not been enacted. 1949 (2nd Sess.), c. 37, s. 7.

THE OFFICIAL SECRETS ACT

R.S., 1952, CHAPTER 198

An Act respecting Official Secrets⁽¹⁾

SHORT TITLE

Short title. **1.** This Act may be cited as the *Official Secrets Act, 1939*, c. 49, s. 1.

INTERPRETATION

Definitions.	2. In this Act,
"Attorney General."	(a) "Attorney General" means the Attorney General of Canada;
"Document."	(b) "document" includes part of a document;
"Model."	(c) "model" includes design, pattern and specimen;
"Munitions of war."	(d) "munitions of war" means arms, ammunition, implements or munitions of war, army, naval or air stores, or any articles deemed capable of being converted therein, or made useful in the production thereof;
"Offence under this Act."	(e) "offence under this Act" includes any act, omission, or other thing that is punishable hereunder;
"Office under Her Majesty."	(f) "office under Her Majesty" includes any office or employment in or under any department or branch of the Government of Canada or of any province, and any office or employment in, on or under any board, commission, corporation or other body that is an agent of Her Majesty in right of Canada or any province;
"Prohibited place."	(g) "prohibited place" means (i) any work of defence belonging to or occupied or used by or on behalf of Her Majesty including arsenals, naval, army or air force establishments

(1) The only reason why this Act is placed among constitutional enactments is that its adoption in Parliament was rendered possible by the enactment of the Statute of Westminster, specially by section two thereof.

Previously the law in force in Canada dealing with official secrets was to be found in the Official Secrets Act (Imperial), 1911, 1-2 Geo. V, c. 28, and in ss. 85-86 of the *Criminal Code*. The Imperial Act of 1911 was made applicable in terms to Canada. It is repealed by s. 15 of the Canadian Act in so far as it is part of the law of Canada.

In 1920 this Act was amended and other provisions were enacted by the Parliament of Great Britain in the Official Secrets Act, 1920 (Imperial), 10-11 Geo. V, c. 75. This latter Act was not made applicable to Canada.

The law in force in Canada did not, therefore, adequately deal with the subject of espionage.

The above Act is in the main a consolidation of the English Acts of 1911 and 1920.

or stations, factories, dockyards, mines, minefields, camps, ships, aircraft, telegraph, telephone, wireless or signal stations or offices and places used for the purpose of building, repairing, making or storing any munitions of war or any sketches, plans, models, or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war.

- (ii) any place not belonging to Her Majesty where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of, Her Majesty, or otherwise on behalf of Her Majesty, and
 - (iii) any place that is for the time being declared by order of the Governor in Council to be a prohibited place on the ground that information with respect thereto or damage thereto would be useful to a foreign power;
 - (h) "sketch" includes any mode of representing any place or thing; "Sketch."
 - (i) "senior police officer" means any officer of the Royal Canadian Mounted Police not below the rank of inspector; any officer of any provincial police force of a like or superior rank; the chief constable of any city or town with a population of not less than ten thousand; or any person upon whom the powers of a senior police officer are for the purposes of this Act conferred by the Governor in Council; "Senior police officer."
 - (j) any reference to Her Majesty means Her Majesty in right of Canada or of any province; and Reference to Her Majesty.
 - (k) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document or information itself or the substance, effect, or description thereof only is communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note, or document, include the copying or causing to be copied the whole or any part of any sketch, plan, model, article, note, or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document. Communicating or receiving.
- 1939, c. 49, s. 2; 1950, c. 46, s. 1.

Spying.

3. (1) Every person who, for any purpose prejudicial to the safety or interests of the State,

- (a) approaches, inspects, passes over, or is in the neighbourhood of, or enters any prohibited place;
- (b) makes any sketch, plan, model or note that is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power; or
- (c) obtains, collects, records, or publishes, or communicates to any other person any secret official code word, or pass word, or any sketch, plan, model article, or note, other document or information that is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power;

is guilty of an offence under this Act.

Accused person may be convicted if purpose prejudicial to the safety of the State.

(2) On a prosecution under this section, it is not necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case, or his conduct, or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document or information relating to or used in any prohibited place, or anything in such a place, or any secret official code word or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, it shall be deemed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State unless the contrary is proved.

Communication with agent of foreign power, etc., sufficient evidence.

(3) In any proceedings against a person for an offence under this section, the fact that he has been in communication with, or attempted to communicate with, an agent of a foreign power, whether within or without Canada, is evidence that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information that is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power.

When person deemed to have been in communication with agent of a foreign power.

(4) For the purpose of this section, but without prejudice to the generality of the foregoing provision

- (a) a person shall, unless he proves the contrary, be deemed to have been in communication with an agent of a foreign power if
 - (i) he has, either within or without Canada, visited the address of an agent of a foreign power or consorted or associated with such agent, or

- (ii) either within or without Canada, the name or address of, or any other information regarding such an agent has been found in his possession, or has been supplied by him to any other person, or has been obtained by him from any other person;
- (b) "an agent of a foreign power" includes any person who is or has been or is reasonably suspected of being or having been employed by a foreign power either directly or indirectly for the purpose of committing an act, either within or without Canada, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without Canada, committed, or attempted to commit, such an act in the interests of a foreign power; and "An agent of a foreign power" defined.
- (c) any address, whether within or without Canada, reasonably suspected of being an address used for the receipt of communications intended for an agent of a foreign power, or any address at which such an agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of an agent of a foreign power, and communications addressed to such an address to be communications with such an agent. 1939, c. 49, s. 3. When address deemed that of an agent of a foreign power.

4. (1) Every person who, having in his possession or control any secret official code word, or pass word, or any sketch, plan, model, article, note, document or information that relates to or is used in a prohibited place or anything in such a place, or that has been made or obtained in contravention of this Act, or that has been entrusted in confidence to him by any person holding office under Her Majesty, or that he has obtained or to which he has had access while subject to the Code of Service Discipline within the meaning of the *National Defence Act* or owing to his position as a person who holds or has held office under Her Majesty, or as a person who holds or has held a contract made on behalf of Her Majesty, or a contract the performance of which in whole or in part is carried out in a prohibited place, or as a person who is or has been employed under a person who holds or has held such an office or contract, Wrongful communication, etc., of information.

- (a) communicates the code word, pass word, sketch, plan, model, article, note, document or information to any person, other than a person to whom he is authorized to communicate with, or a person to whom it is in the interest of the State his duty to communicate it;
- (b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety or interests of the State;

- (c) retains the sketch, plan, model, article, note, or document in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it or fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or
- (d) fails to take reasonable care of, or so conducts himself as to endanger the safety of the sketch, plan, model, article, note, document, secret official code word or pass word or information;

is guilty of an offence under this Act.

Communi-
cation of
sketch, plan,
model, etc.

(2) Every person who, having in his possession or control any sketch, plan, model, article, note, document or information that relates to munitions of war, communicates it directly or indirectly to any foreign power, or in any other manner prejudicial to the safety or interests of the State, is guilty of an offence under this Act.

Receiving
code word,
sketch, etc.

(3) Every person who receives any secret official code word, or pass word, or sketch, plan, model, article, note, document or information, knowing, or having reasonable ground to believe, at the time when he receives it, that the code word, pass word, sketch, plan, model, article, note, document or information is communicated to him in contravention of this Act, is guilty of an offence under this Act, unless he proves that the communication to him of the code word, pass word, sketch, plan, model, article, note, document or information was contrary to his desire.

(4) Every person who

Retaining
official
document,
etc.

(a) retains for any purpose prejudicial to the safety or interests of the State any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any Government department or any person authorized by such department with regard to the return or disposal thereof; or

Allowing
other
to have
possession.

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code word or pass word issued for the use of some person other than himself, or on obtaining possession of any official document by finding or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to a police constable;

is guilty of an offence under this Act. 1939, c. 49, s. 4; 1951 (2nd Sess.), c. 7, s. 28.

5. (1) Every person who, for the purpose of gaining admission, or of assisting any other person to gain admission, to a prohibited place, or for any other purpose prejudicial to the safety or interests of the State,

Unauthor-
ized use of
uniforms;
falsification
of reports,
forgery,
personation
and false
documents.

- (a) uses or wears, without lawful authority, any naval, army, air force, police or other official uniform or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform;
- (b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission;
- (c) forges, alters, or tampers with any passport or any naval, army, air force, police or official pass, permit, certificate, licence or other document of a similar character (hereinafter in this section referred to as an official document), or uses or has in his possession any such forged, altered, or irregular official document;
- (d) personates, or falsely represents himself to be a person holding, or in the employment of a person holding, office under Her Majesty, or to be or not to be a person to whom an official document or secret official code word or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code word or pass word, whether for himself or any other person, knowingly makes any false statement; or
- (e) uses, or has in his possession or under his control, without the authority of the Government department or the authority concerned, any die, seal, or stamp of or belonging to, or used, made, or provided by any Government department, or by any diplomatic, naval, army, or air force authority appointed by or acting under the authority of Her Majesty, or any die, seal or stamp, so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or uses, or has in his possession, or under his control, any such counterfeited die, seal or stamp;

is guilty of an offence under this Act.

(2) Every person who, without lawful authority or excuse, manufactures or sells, or has in his possession for sale any such die, seal or stamp as aforesaid, is guilty of an offence under this Act. 1939, c. 49, s. 5.

Unlawful
dealing with
dies, seals,
etc.

Interfering
with officers
of the police
or members
of Her
Majesty's
forces.

6. No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede any constable or police officer, or any member of Her Majesty's forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place, and every person who acts in contravention of, or fails to comply with, this provision, is guilty of an offence under this Act. 1939, c. 49, s. 6.

Power to
require the
production
of
telegrams.

7. (1) Where it appears to the Minister of Justice that such a course is expedient in the public interest, he may, by warrant under his hand, require any person who owns or controls any telegraphic cable or wire, or any apparatus for wireless telegraphy, used for the sending or receipt of telegrams to or from any place out of Canada, to produce to him, or to any person named in the warrant, the originals and transcripts, either of all telegrams, or of telegrams of any specified class or description, or of telegrams sent from or addressed to any specified person or place, sent to or received from any place out of Canada by means of any such cable, wire, or apparatus and all other papers relating to any such telegram as aforesaid.

Refusing or
neglecting
to produce
original, etc.

Penalty.

(2) Every person who, on being required to produce any such original or transcript or paper as aforesaid, refuses or neglects to do so is guilty of an offence under this Act, and is for each offence, liable on summary conviction to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding two hundred dollars, or to both such imprisonment and fine. 1939, c. 49, s. 7.

Harbour-
ing spies.

8. Every person who knowingly harbours any person whom he knows, or has reasonable grounds for supposing, to be a person who is about to commit or who has committed an offence under this Act, or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, and every person who, having harboured any such person, or permitted to meet or assemble in any premises in his occupation or under his control any such persons, wilfully omits or refuses to disclose to a senior police officer any information that it is in his power to give in relation to any such person, is guilty of an offence under this Act. 1939, c. 49, s. 8.

Attempts,
incitements,
etc.

9. Every person who attempts to commit any offence under this Act, or solicits or incites or endeavours to persuade another person to commit an offence, or aids or abets and does any act preparatory to the commission of an offence under this Act, is guilty of an offence under this Act and is liable to the same punishment, and to be proceeded against in the same manner, as if he had committed the offence. 1939, c. 49, s. 9.

10. Every person who is found committing an offence under this Act, or who is reasonably suspected of having committed, or having attempted to commit, or being about to commit, such an offence, may be arrested without a warrant and detained by any constable or police officer. 1939, c. 49, s. 10.

Power to
arrest
without
warrant.

11. (1) If a justice of the peace is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search warrant authorizing any constable named therein, to enter at any time any premises or place named in the warrant, if necessary by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything that is evidence of an offence under this Act having been or being about to be committed, that he may find on the premises or place or on any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

Search
warrants.

(2) Where it appears to an officer of the Royal Canadian Mounted Police not below the rank of Superintendent that the case is one of great emergency and that in the interest of the State immediate action is necessary, he may by a written order under his hand give to any constable the like authority as may be given by the warrant of a justice under this section. 1939, c. 49, s. 11.

In case of
great
emergency.

12. A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Attorney General; except that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney General to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained. 1939, c. 49, s. 12.

Prosecution
only with
consent of
Attorney
General.

13. An Act, omission or thing that would, by reason of this Act, be punishable as an offence if committed in Canada, is, if committed outside Canada, an offence against this Act, triable and punishable in Canada, in the following cases:

Offences
committed
outside
Canada
triable in
Canada.

- (a) where the offender at the time of the commission was a Canadian citizen within the meaning of the *Canadian Citizenship Act*; or
- (b) where any code word, pass word, sketch, plan, model, article, note, document, information or other thing whatsoever in respect of which an offender is charged was obtained by him, or depends upon information that he obtained, while owing allegiance to Her Majesty. 1950, c. 46, s. 2.

Where
offence
deemed to
have been
committed.

14. (1) For the purposes of the trial of a person for an offence under this Act, the offence shall be deemed to have been committed either at the place in which the same actually was committed, or at any place in Canada in which the offender may be found.

Public
may be
excluded
from trial.

(2) In addition and without prejudice to any powers that a court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a court against any person for an offence under this Act or the proceedings on appeal, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the interest of the State, that all or any portion of the public shall be excluded during any part of the hearing, the court may make an order to that effect, but the passing of sentence shall in any case take place in public.

Where
guilty
person a
company or
corporation.

(3) Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation is guilty of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent. 1939, c. 49, s. 13.

Penalties.

15. (1) Where no specific penalty is provided in this Act, any person who is guilty of an offence under this Act shall be deemed to be guilty of an indictable offence and is, on conviction, punishable by imprisonment for a term not exceeding fourteen years; but such person may, at the election of the Attorney General, be prosecuted summarily in the manner provided by the provisions of the *Criminal Code* relating to summary convictions, and, if so prosecuted, is punishable by fine not exceeding five hundred dollars, or by imprisonment not exceeding twelve months, or by both fine and imprisonment.

General.
Indictable
offence.

Summary
conviction.

Application
of the
*Identifica-
tion of
Criminals
Act*.

(2) Any person charged with or convicted for an offence under this Act shall, for the purposes of the *Identification of Criminals Act*, be deemed to be charged with or convicted of an indictable offence notwithstanding that such person is prosecuted summarily in the manner provided by the provisions of the *Criminal Code* relating to summary convictions. 1950, c. 46, s. 3.

THE CANADIAN CITIZENSHIP ACT⁽¹⁾

R.S., 1952, CHAPTER 33

(As amended)

An Act respecting Citizenship, Nationality, Naturalization and Status of Aliens

SHORT TITLE

1. This Act may be cited as the *Canadian Citizenship Act*. Short title.
1946, c. 15, s. 1.

INTERPRETATION

2. In this Act, Definitions.

(a) "alien" means a person who is not a Canadian citizen, Commonwealth citizen, British subject or citizen of the Republic of Ireland; "Alien."

(b) "Canadian citizen" means a person who is a Canadian citizen under this Act; "Canadian citizen."

(bb) 'Canadian domicile' means Canadian domicile as defined in the laws respecting immigration that are or were in force at the time the Canadian domicile of a person is relevant under this Act; "Canadian domicile."
Added
1952-53,
c. 23, s. 12,
ss. (1).

(c) "Canadian ship" means a Canadian ship as defined in the *Canada Shipping Act*, and includes an aircraft registered in Canada under the *Aeronautics Act* and regulations made thereunder; "Canadian ship."

(d) "certificate of citizenship" means a certificate of citizenship granted or issued under this Act; "Certificate of citizenship."
Rep. & new,
1952-53,
c. 23, s. 12,
ss. (2).

(e) "certificate of naturalization" means a certificate of naturalization granted under any Act that was in force in Canada at any time before the 1st day of January, 1947; "Certificate of naturalization."

(1) The purpose of an Act on Canadian citizenship is to define clearly this symbol of nationhood, the nationality or citizenship status.

By reason of the particular structure of the British Commonwealth of Nations Canadians find that they have a sort of dual personality. As subjects of a Queen who resides in Britain they are British subjects; as nationals of a sovereign and democratic country called Canada, they are Canadian citizens. Therefore it is evident that all British subjects are not Canadians but all Canadian citizens are British subjects. So far as Canadians are concerned the residence of the Queen is only incidental—she might as well reside in Canada, for she is Queen of Canada in the same manner as she is Queen of the United Kingdom. In other words the title of Her Majesty, the succession to the Throne and other such incidents are to be determined by

"Clerk" or
"Clerk of
the Court."
Rep. & new,
1956, c. 6,
s. 1, ss. (1).

(f) "Clerk" or "Clerk of the Court" includes all officers exercising the functions of prothonotary, registrar or clerk of any court having jurisdiction under this Act, and, where a person is designated to act as a court for the purposes of this Act, means any such officer

joint consultation of the different kingdoms, and the parliament and government which sit at Westminster and administer the United Kingdom from London have no control or jurisdiction over the parliament and government at Ottawa.

These then are the principles at the basis of Canadian International status. Now to summarize the philosophy and history of Canadian nationality:

Nationality we know to be the political and juridical bond which unites the individual to the state. Where there is a state, that is a permanent and independent gathering of men, owners of a common territory, associated under a common authority, nationality will follow.

Those having the nationality of a country are generally called subjects, citizens or nationals—subjects as in a kingdom, for instance, British subjects; citizens as in a republic or other democracy, for instance, American citizens or Canadian citizens or even United Kingdom citizens. National is a more general term which is well understood and indicates allegiance to a country. Previous to the passing of the *Canadian Citizenship Act*, Canada had Canadian nationals, but the Act, defining them is repealed by the new Act defining Canadian citizens. Each state claims for itself the right to define and apply its own principles and rules as regards nationality.

The special structure of the British Empire and of the British Commonwealth of Nations has rendered rather difficult a study of nationality in the United Kingdom, the dominions, colonies and protectorates. Canada which is a sovereign state and recognized in international law as a person *sui generis* has clarified once and for all the status of its nationals who, while retaining their status of British subjects, are now known as Canadian citizens.

Before Confederation the British common law and imperial statutes respecting nationality applied to Canada. Generally speaking, the common law regulated nationality in Great Britain up to 1844 when the *Naturalization Act* was passed. This Act did not extend to the colonies. The *Canadian Naturalization Act* was passed in 1881 and came into force in 1883. It was agreed at the Imperial Conference of 1907 that a Naturalization Act should be passed establishing uniformity within the Empire, that is, that imperial nationality should be world wide, with each dominion being left free to grant local nationality, the imperial act to apply to the dominions if adopted by them and nothing proposed to affect the effectiveness of local laws regulating immigration or the like or differentiating between classes of British subjects.

The act of the United Kingdom was passed in 1914, and Canada subsequently passed its own legislation in line therewith. British subjects became British subjects throughout the Empire, which did not mean, however, that British subjects from the other dominions had the same rights in Canada as the Canadians. This was made clear from the *Immigration Act* of 1910 which defined Canadian citizens and the *Canadian Nationals Act* of 1921 which defined "any British subject who is a Canadian citizen" as a Canadian national. Thus Canada's own people became British subjects of Canadian nationality.

To summarize: "The members of the Commonwealth are united by a common allegiance to the Crown which is the basis of the common status possessed by all subjects of His Majesty. This common status is in no way inconsistent with the recognition within and without the Commonwealth of the distinct nationality possessed by the nationals of the individual states of the British Commonwealth."

To conclude: Canadians have found it wise and expedient to remain British subjects but they have realized that they are now also and above all Canadian citizens. They have acquired through their own efforts, more especially through the sacrifices of those who have given their lives on the battlefields, a strong consciousness of national unity and a great pride in their country.

- approved by the Minister and available to assist the designated person as his clerk or any other person nominated by the Minister to be the Clerk of the Court and, if no such officer is so approved or no other person is so nominated, means the designated person;
- (g) "country of the British Commonwealth" means for the purposes of this Act a country listed in the First Schedule or a country declared for the purposes of this Act to be a country of the British Commonwealth of Nations by proclamation issued under this Act, and includes, in the case of any such country, all colonies, dependencies or territories thereof; "Country of the British Commonwealth."
- (h) "Court" means any superior, circuit, county or district court and includes in the province of Quebec, any district magistrate, and any court or person designated under subsection (2) of section 34 to act as a court for the purposes of this Act; "Court." Rep. & new, 1956, c. 6, s. 1, ss. (2).
- (i) "disability" means the incapacity of a minor, a lunatic or an idiot; "Disability."
- (j) *Repealed*; 1952-53, c. 23, s. 12, par. (4).
- (k) "foreign", as applied to a country, does not include a country listed in the First Schedule or the Republic of Ireland; as applied to a government, does not include the government of such country or Republic; and as applied to a nationality, does not include the nationality of such country or Republic; "Foreign."
- (l) "Minister" means the Minister of Citizenship and Immigration; "Minister."
- (m) "minor" means a person who has not attained the age of twenty-one years; and "Minor."
- (mm) 'place of domicile' means the place in which a person has his home or in which he resides or to which he returns as his place of permanent abode and does not mean a place in which he stays for a mere special or temporary purpose; "Place of domicile." Added 1952-53, c. 23, s. 12, ss. (5).
- (n) "responsible parent" means the father, but where the father is dead, or where the custody of a child has been awarded to his mother by order of a court of competent jurisdiction, or where a child was born out of wedlock and resides with the mother, "responsible parent" means the mother. 1946, c. 15, s. 2; 1950, c. 29, s. 1; 1952-53, c. 23, s. 12; 1956, c. 6, s. 1. "Responsible parent."

3. Where a person is required to state or declare his national status, any person who is a Canadian citizen under this Act shall state or declare himself to be a Canadian citizen and his statement or declaration to that effect is a good and sufficient compliance with such requirement. 1946, c. 15, s. 3. Declaration of Canadian citizenship an adequate statement of national status.

PART I

NATURAL-BORN CANADIAN CITIZENS

Persons
born before
January 1st,
1947.

Rep. & new,
1952-53,
c. 23, s. 13.

4. (1) A person born before the 1st day of January, 1947, is a natural-born Canadian citizen, if

- (a) he was born in Canada or on a Canadian ship and was not an alien on the 1st day of January, 1947; or
- (b) he was born outside of Canada elsewhere than on a Canadian ship and was not, on the 1st day of January, 1947, an alien and either was a minor on that date or had before that date, been lawfully admitted to Canada for permanent residence and his father, or in the case of a person born out of wedlock, his mother
 - (i) was born in Canada or on a Canadian ship and was not an alien at the time of that person's birth,
 - (ii) was, at the time of that person's birth, a British subject who had Canadian domicile,
 - (iii) was, at the time of that person's birth, a person who had been granted, or whose name was included in, a certificate of naturalization, or
 - (iv) was a British subject who had his place of domicile in Canada for at least twenty years immediately before the 1st day of January, 1947, and was not, on that date, under order of deportation.

Conditions
for retention
by persons
born outside
Canada.

(2) A person who is a Canadian citizen under paragraph (b) of subsection (1) and was a minor on the 1st day of January, 1947, ceases to be a Canadian citizen upon the date of the expiration of three years after the day on which he attains the age of twenty-one years or on the 1st day of January, 1954, whichever is the later date, unless he

- (a) has his place of domicile in Canada at such date; or
- (b) has, before such date and after attaining the age of twenty-one years, filed, in accordance with the regulations, a declaration of retention of Canadian citizenship. 1952-53, c. 23, s. 13.

Born after
December
31st, 1946.

5. (1) A person born after the 31st day of December, 1946, is a natural-born Canadian citizen,

- (a) if he is born in Canada or on a Canadian ship; or
- (b) if he is born outside of Canada elsewhere than on a Canadian ship, and
 - (i) his father, or in the case of a child born out of wedlock, his mother, at the time of that person's birth, is a Canadian citizen, and
 - (ii) the fact of his birth is registered, in accordance with the regulations, within two years after its occurrence or within such extended period as the Minister may authorize in special cases.

Rep. & new,
1952-53,
c. 23, s. 14.

(1a) A person who is a Canadian citizen under paragraph (b) of subsection (1) ceases to be a Canadian citizen upon the date of the expiration of three years after the day on which he attains the age of twenty-one years, unless he

- (a) has his place of domicile in Canada at such date; or
- (b) has, before such date and after attaining the age of twenty-one years, filed, in accordance with the regulations, a declaration of retention of Canadian citizenship.

Conditions for retention by persons born outside Canada.

Added 1952-53, c. 23, s. 14.

(2) Subsection (1) does not apply to a person if, at the time of that person's birth, his responsible parent

- (a) is an alien who has not been lawfully admitted to Canada for permanent residence; and

(b) is

- (i) a foreign diplomatic or consular officer or a representative of a foreign government accredited to Her Majesty,
- (ii) an employee of a foreign government attached to or in the service of a foreign diplomatic mission or consulate in Canada, or
- (iii) an employee in the service of a person referred to in subparagraph (i). 1950, c. 29, s. 2; 1952-53, c. 23, s. 14.

Not applicable to children of foreign diplomats, etc.

6. A person who has ceased to be a Canadian citizen by virtue of subsection (2) of section 4 or subsection (1a) of section 5 may, in accordance with the regulations, file a petition for resumption of Canadian citizenship and shall, if the petition is approved by the Minister, be deemed to have resumed Canadian citizenship as of the date of such approval or as of such other earlier or later date as the Minister may fix in any special case, and the Minister may issue a certificate of citizenship accordingly. 1952-53, c. 23, s. 15.

Resumption with approval of Minister.

Rep. & new, 1952-53, c. 23, s. 15.

7. Every foundling, who is or was first found as a deserted infant in Canada, shall, until the contrary is proved, be deemed to have been born in Canada. 1946, c. 15, s. 7.

Foundlings.

8. Where a child is born after the death of his father, the child shall, for the purposes of this Part, be deemed to have been born immediately before the death of the father. 1946, c. 15, s. 8.

Child born after death of his father.

PART II

CANADIAN CITIZENS OTHER THAN NATURAL-BORN

9. (1) A person, other than a natural-born Canadian citizen, is a Canadian citizen, if that person

- (a) was granted, or the name of that person was included in, a certificate of naturalization and was not an alien on the 1st day of January, 1947;

On January 1st, 1947.

Rep. & new, 1952-53, c. 23, s. 16, ss. (1).

- (b) was, immediately before the 1st day of January, 1947, a British subject who had Canadian domicile;
- (c) was a British subject who had his place of domicile in Canada for at least twenty years immediately before the 1st day of January, 1947, and was not, on that date, under order of deportation; or
- (d) being a woman other than a woman who comes within paragraph (a), (b) or (c).
 - (i) before the 1st day of January, 1947, was married to a man who, if this Act had come into force immediately before the marriage, would have been a natural-born Canadian citizen as provided in section 4 or a Canadian citizen as provided in paragraph (a), (b) or (c), and
 - (ii) on the 1st day of January, 1947, was a British subject and had been lawfully admitted to Canada for permanent residence.

When
deemed to
have become
Canadian
citizens.

(2) A person who is a Canadian citizen under subsection (1) shall be deemed, for the purposes of section 19, to have become a Canadian citizen,

- (a) where he was granted, or his name was included in, a certificate of naturalization, on the date of the certificate;
- (b) where he is a Canadian citizen by reason of being a British subject who had Canadian domicile, on the date he acquired Canadian domicile;
- (c) where he is a Canadian citizen by reason of being a British subject who had his place of domicile in Canada for at least twenty years immediately before the 1st day of January, 1947, on the 1st day of January, 1927; and
- (d) in the case of a woman to whom paragraph (d) of subsection (1) applies, on the date of the marriage or on which she became a British subject or on which she was lawfully admitted to Canada for permanent residence, whichever is the latest date.

Rep. & new,
1952-53,
c. 23, s. 16,
ss. (2).

Certificate
of natural-
ization not
subject to
limitation.

(3) For the purposes of this section, a certificate of naturalization, granted under any Act in force in Canada before the 1st day of January, 1915, subject to the qualification described in section 24 of the *Naturalization Act*, chapter 77 of the Revised Statutes of Canada, 1906, or a qualification to a like effect, shall be deemed never to have been subject to that qualification. Added 1956, c. 6.

Indians or
Eskimos.
Added
1956,
c. 6, s. 2.

(4) An Indian as defined in the *Indian Act*, or a person of the race of aborigines commonly referred to as Eskimos, other than a natural-born Canadian citizen, is a Canadian citizen if that person

- (a) had a place of domicile in Canada on the 1st day of January, 1947, and

(b) on the 1st day of January, 1956, had resided in Canada for more than ten years,
and such person is deemed, for the purposes of section 19, to have become a Canadian citizen on the 1st day of January, 1947. 1950, c. 29, s. 4; 1952-53, c. 23; 1956, c. 6.

10. (1) The Minister may, in his discretion, grant a certificate of citizenship to any person who is not a Canadian citizen and who makes application for that purpose and satisfies the Court that,

Grant of a certificate of citizenship.

- (a) he has attained the age of twenty-one years, or he is the spouse of and resides in Canada with a Canadian citizen;
Rep. & new, 1953-54, c. 34, s. 1.
- (b) he has resided in Canada for a period of at least one year immediately preceding the date of his application;
Rep. & new, 1952-53, c. 23, s. 17, ss. (1).
- (c) the applicant has
 - (i) acquired Canadian domicile,
 - (ii) served outside of Canada in the armed forces of Canada in a war in which Canada was or is engaged or in connection with any action taken by Canada under the United Nations Charter, the North Atlantic Treaty or other similar instrument for collective defence that may be entered into by Canada,
 - (iii) been lawfully admitted to Canada for permanent residence and is the wife of a Canadian citizen, or
 - (iv) had a place of domicile in Canada for at least twenty years immediately before the 1st day of January, 1947, and was not, on that date, under order of deportation;
- (d) he is of good character;
- (e) he has an adequate knowledge of either the English or the French language, or, if he has not such an adequate knowledge, he has resided continuously in Canada for more than twenty years;
- (f) he has an adequate knowledge of the responsibilities and privileges of Canadian citizenship and intends to comply with the oath of allegiance set forth in the Second Schedule; and
Rep. & new, 1958, c. 24, s. 1.
- (g) he intends to have his place of domicile permanently in Canada.
Rep. & new, 1952-53, c. 23, s. 17, ss. (2).

(2) Notwithstanding the provisions of subsection (1) the Minister may, in his discretion, grant a certificate of citizenship to any person who is a British subject and who makes to the Minister a declaration that he desires such certificate and who satisfies the Minister that he possesses the qualifications prescribed by paragraphs (b), (c), (d), (e), (f) and (g) of subsection (1); but in any case where, in the opinion of the

Grant of certificate to British subjects.

Minister, there is a doubt as to whether the applicant possesses the said qualifications, the Minister before granting such a certificate may refer the declaration and the material in support thereof to the Court in the judicial district in which the declarant resides, and the declaration shall thereupon be dealt with as an application under subsection (1).

Grant to women who lost status of British subject through marriage.

(3) The Minister may, in his discretion, grant a certificate of citizenship to a woman, upon her application therefor, who

- (a) by virtue of any law of Canada in force at any time before the 1st day of January, 1947, had, by reason only of her marriage to an alien or the acquisition by her husband of a foreign nationality, ceased to be a British subject; and
- (b) if this Act had come into force immediately before the said marriage or acquisition, would have been a natural-born Canadian citizen or a Canadian citizen other than a natural-born Canadian citizen;

and, from the date of taking the oath of allegiance, the applicant shall, without affecting the nationality or citizenship she had prior to that date, be deemed to be a natural-born Canadian citizen or a Canadian citizen other than a natural-born Canadian citizen, according as she would under paragraph (b) have been a natural-born Canadian citizen or a Canadian citizen other than a natural-born Canadian citizen.

Grant to persons who lost status of Canadian citizen or British subject for reasons other than marriage.
Rep. & new, 1952-53, c. 23, s. 17, ss. (3).

(4) The Minister may, in his discretion, grant a certificate of citizenship to a person who was

- (a) a natural-born Canadian citizen under section 4 or 5;
- (b) a British subject who was born in Canada or on a Canadian ship;
- (c) a British subject who was born elsewhere than in Canada or on a Canadian ship and whose father, or in the case of a person born out of wedlock, whose mother
 - (i) was born in Canada or on a Canadian ship and was not an alien at the time of that person's birth,
 - (ii) was, at the time of that person's birth, a British subject who had Canadian domicile,
 - (iii) was, at the time of that person's birth, a person who had been granted, or whose name was included in, a certificate of naturalization, or
 - (iv) was a British subject who had his place of domicile in Canada for at least twenty years immediately before the 1st day of January, 1947, and was not, on that date, under order of deportation; or
- (d) a British subject by virtue of a certificate of naturalization as defined in the *Naturalization Act*, chapter 138 of the Revised Statutes of Canada, 1927;

Rep. & new, 1956, c. 6, s. 3, ss. (1).

Rep. & new, 1952-53, c. 23, s. 17, ss. (3).

and who ceased to be a Canadian citizen or a British subject, as the case may be, by naturalization outside of Canada or for any reason other than marriage, if such person applies for

a certificate of citizenship and satisfies the Minister that he possesses the qualifications prescribed by paragraphs (b), (d), (e), (f) and (g) of subsection (1).

(5) The Minister may, in his discretion, grant a certificate of citizenship to a minor child of a person who is a Canadian citizen other than a natural-born Canadian citizen if

Certificate to minor children.
Rep. & new, 1956, c. 6, s. 3 (2).

(a) the application is made by the responsible parent of the child or by a person authorized by the regulations, and

Rep. & new, 1956, c. 6, s. 3, ss. (2).

(b) the child has been lawfully admitted to Canada for permanent residence and, where he is fourteen or more years of age, has an adequate knowledge of either the English or the French language.

(6) Any period during which an applicant for a certificate of citizenship

(a) has served in the armed forces of Canada,

(b) was employed outside of Canada in the public service of Canada or of a province, otherwise than as a locally engaged person, or

(c) was the wife of a person described in paragraph (a) or (b) and was residing with him while he was serving or was employed as described in those paragraphs,

shall be treated as equivalent to a period of residence in Canada for the purposes of subsections (1), (2) and (4).

(7) No period during which an applicant for a certificate of citizenship was confined in or an inmate of any penitentiary, gaol, reformatory, prison, or asylum for the insane, in Canada, shall be counted as a period of residence in Canada for the purposes of subsections (1), (2) and (4).

Period in penitentiary etc. not to be counted as residence.

(8) Subparagraph (i) of paragraph (c) of subsection (1) does not apply to a person who has resided continuously in Canada for a period of one year immediately preceding the 1st day of June, 1956, and had been admitted to Canada for permanent residence prior to the 31st day of December, 1956 and, in addition, has also resided in Canada for a further period of not less than four years during the six years immediately preceding the 1st day of June, 1953.

Persons who previously satisfied residence requirements.
Rep. & new, 1956, c. 6, s. 3, ss. (3).

(9) Any of the following persons, namely,

(a) a person serving or employed as described in subsection (6), or

(b) the wife or child of such person,

who has been granted an immigrant visa by a Canadian Immigration Officer shall, for the purposes of this section, be deemed to have been lawfully admitted to Canada for permanent residence. 1950, c. 29, s. 5; 1952-53, c. 23, s. 17; 1953-54, c. 34, s. 1; 1956, c. 6, s. 3.

Effect of visa to member of forces or wife and other cases.
Rep. & new, 1956, c. 6, s. 3, ss. (3).

Issue to
remove
doubt.
Rep. & new,
1952-53,
c. 23, s. 11.

11. (1) Where a doubt, whether on a question of fact or of law, has arisen as to whether a person is or is not a Canadian citizen, the Minister may, in his discretion, upon application, resolve such doubt and issue a certificate of citizenship as proof that such person is a Canadian citizen and the issuing of such certificate shall not be deemed to establish that the person to whom it is issued was not previously a natural-born or other than natural-born Canadian citizen.

Grant to
adopted and
legitimated
persons.

(2) The Minister may, in his discretion, upon application, grant a certificate of citizenship to a person who has been lawfully admitted to Canada for permanent residence and who, at any time in a province of Canada pursuant to the law of that province then in force,

(a) has been adopted, if the adopter or in the case of a joint adoption, the male adopter is a Canadian citizen; or

(b) has been legitimized, if the person legally recognized as the father of the legitimated person by such legitimation is a Canadian citizen.

Grant to
minors in
special
cases.

(3) Without restricting the operation of subsection (2), the Minister may, in his discretion, upon application, grant a certificate of citizenship to a minor in any special case whether or not the conditions required by this Act have been complied with and whether or not the case comes within subsection (2). 1950. c. 29, s. 6; 1952-53, c. 23, s. 18.

Certificate
not effective
till oath of
allegiance
taken.

12. A certificate of citizenship granted to any person under this Part, other than to a minor under the age of fourteen years, shall not take effect until the applicant has taken the oath of allegiance set forth in the Second Schedule, and thereupon the said person shall become a Canadian citizen. 1946, c. 15, s. 12.

Certificate
not to be
granted to
persons
under a
disability.

13. Except as provided by this Act in the case of minors, a certificate of citizenship shall not be granted to any person under a disability. 1946, c. 15, s. 13.

New
application
allowed.

14. An applicant whose application has been rejected by the Court or by the Minister may make another application under section 10 after the expiration of a period of two years from the date of such rejection. 1950, c. 29, s. 7.

PART III

LOSS OF CANADIAN CITIZENSHIP

On acquisi-
tion of other
nationality.

15. (1) A Canadian citizen, who, when outside of Canada and not under a disability, by any voluntary and formal act other than marriage, acquires the nationality or citizenship of a country other than Canada, thereupon ceases to be a Canadian citizen.

(2) Subsection (1) does not apply where the nationality or citizenship acquired is that of a country at war with Canada at the time of the acquisition, but, in such a case, the Minister may, in his discretion, order that the Canadian citizen shall cease to be a Canadian citizen and he shall be deemed to have ceased to be a Canadian citizen either at the date of the said acquisition or at the date of the order as the Minister may therein direct. 1950, c. 29, s. 8.

Where country at war with Canada.

16. Where a natural-born Canadian citizen, at his birth or during his minority, or any Canadian citizen on marriage became or becomes under the law of any other country a national or citizen of the country, if, after attaining the full age of twenty-one years, or after the marriage, he makes, while not under disability, and still such a national or citizen, a declaration renouncing his Canadian citizenship, he thereupon ceases to be a Canadian citizen. 1950, c. 29, s. 8.

By renunciation where dual nationality.

17. (1) A Canadian citizen, who, under the law of another country, is a national or citizen of such country and who serves in the armed forces of such country when it is at war with Canada, thereupon ceases to be a Canadian citizen.

Dual national serving in armed forces of country at war with Canada.

(2) This section does not apply to a Canadian citizen who, under law of another country, became a national or citizen of such country when it was at war with Canada. 1950, c. 29, s. 8.

Exception.

18. (1) Subject to subsections (2) and (3), a person who, since becoming a Canadian citizen, has resided outside of Canada for a period of ten consecutive years ceases to be a Canadian citizen upon the expiration of such period.

Loss through residence outside of Canada.

(2) This section does not apply to

Exceptions. Rep. & new, 1952-53, c. 23, s. 19.

(a) a Canadian citizen who

- (i) is a natural-born Canadian citizen, or
- (ii) has served outside of Canada in the armed forces of Canada in a war in which Canada was or is engaged or in connection with any action taken by Canada under the United Nations Charter, the North Atlantic Treaty or other similar instrument for collective defence that may be entered into by Canada and has been honourably discharged from such armed forces;

(b) residence out of Canada for any of the following objects, namely,

- (i) to serve in the public service of Canada or of a province thereof,
- (ii) as a representative or employee of a firm, business, company or organization, religious or otherwise, established in Canada or of an international agency of an official character in which Canada participates,

- (iii) on account of ill-health or disability,
- (iv) as the spouse or minor child of and for the purpose of being with a spouse or parent who is a Canadian citizen residing out of Canada for any of the objects or causes specified in subparagraphs (i), (ii) or (iii), or
- (v) for the purpose of being with a spouse who is a person described in paragraph (a).

Extension.

(3) An officer authorized in the regulations to do so may, in such form and for such period as is prescribed by the regulations, extend the Canadian citizenship of a person who would cease to be a Canadian citizen upon the expiration of the ten-year period described in subsection (1) if such person, before the expiration of such period or an extension thereof under this subsection, satisfies the officer that

- (a) his absence from Canada was of a mere temporary nature; and
- (b) he intends in good faith to return to Canada for permanent residence as a Canadian citizen,

and subsection (1) does not apply until the expiration of the period of extension so given.

Resumption with approval of Minister.

(4) A person who has ceased to be a Canadian citizen under this section may, in accordance with the regulations, file a petition for resumption of Canadian citizenship and shall, if the petition is approved by the Minister, be deemed to have resumed Canadian citizenship as of the date of such approval or as of such earlier or later date as the Minister may fix in any special case, and the Minister may issue a certificate of citizenship accordingly. 1952-53, c. 23, s. 19.

Revocation of Canadian citizenship. Rep. & new, 1958, c. 24, s. 2.

19. (1) The Governor in Council may, in his discretion, order that any person other than a natural-born Canadian citizen shall cease to be a Canadian citizen if, upon a report from the Minister, he is satisfied that such person,

- (a) having been charged with the offence of treason under the *Criminal Code* or with an offence under the *Official Secrets Act*, has failed or refused to return to Canada voluntarily within such time as may be prescribed in a notice sent by the Minister to such person at his last known address and has not appeared at the preliminary inquiry into such offence or at the trial of such offence, or both, as the case may be; or
- (b) has obtained a certificate of naturalization or of Canadian citizenship by false representation or fraud or by concealment of material circumstances.

- (2) The Governor in Council may, in his discretion, order that any person shall cease to be a Canadian citizen if, upon a report from the Minister, he is satisfied that such person has, when not under a disability,
- Governor in Council may revoke.
- (a) when in Canada and at any time after the 1st day of January, 1947, acquired the nationality or citizenship of a foreign country by any voluntary and formal act other than marriage;
 - (b) taken or made an oath, affirmation or other declaration of allegiance to a foreign country; or
 - (c) made a declaration renouncing his Canadian citizenship.
- Foreign nationality acquired in Canada.
- Foreign allegiance.
- Renunciation.
- (3) The Minister before making a report under this section shall cause notice to be given or sent to the last known address of the person in respect of whom the report is to be made, giving him an opportunity of claiming that the case be referred for such inquiry as is hereinafter specified and if said person so claims in accordance with the notice, the Minister shall refer the case for inquiry accordingly.
- Notice and reference for inquiry.
- (4) An inquiry under this section shall be held by a commission constituted for the purpose by the Governor in Council upon the recommendation of the Minister, presided over by a person appointed by the Governor in Council who holds or has held high judicial office, and shall be conducted in such manner as the Governor in Council shall order; but any such inquiry may, if the Governor in Council thinks fit, instead of being held by such commission, be held by the superior court of the province in which the person concerned resides, and the practice and procedure on any inquiry so held shall be regulated by rules of court.
- Inquiry by commission.
- (5) The members of any commission appointed under this section shall have all such powers, rights and privileges as are vested in any superior court or in any judge thereof on the occasion of any action in respect of
- Powers of commission.
- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise, and the issue of a commission or a request to take evidence abroad;
 - (b) compelling the production of documents; and
 - (c) punishing persons guilty of contempt;
- and a summons signed by one or more members of the commission may be substituted for and shall be equivalent to any formal process capable of being issued in any action for enforcing the attendance of witnesses and compelling the production of documents.
- (6) Where the Governor in Council, under this section, directs that any person cease to be a Canadian citizen, the
- Effect of revocation.

order shall have effect from such time as the Governor in Council may direct and thereupon the said person shall cease to be a Canadian citizen. 1950, c. 29, s. 8; 1951, c. 12, s. 1; 1958, c. 24, s. 2.

Ruling on
loss of
Canadian
citizenship.
Ad. 1958,
c. 24, s. 3.

19A. (1) Where in the opinion of the Minister a doubt exists as to whether a person has ceased to be a Canadian citizen, the Minister may refer the question to the commission or court referred to in subsection (4) of section 19 for a ruling and the decision of the commission or the court, as the case may be, shall be final.

Evidence.

(2) Upon the hearing of any reference under this section the commission or the court, as the case may be, may receive and base its decision upon evidence considered credible or trustworthy by it in the circumstances, and in respect of any such reference to a commission the provisions of subsection (5) of section 19 apply *mutatis mutandis*. 1958, c. 24, s. 3.

Child of
parent
ceasing
to be a
Canadian
citizen
under ss.
15 to 17.

20. (1) Where the responsible parent of a minor child ceases to be a Canadian citizen under section 15, 16 or 17, the child thereupon ceases to be a Canadian citizen if he is or thereupon becomes, under the law of any country other than Canada, a national or citizen of that country.

Child of
parent
ceasing
to be a
Canadian
citizen
under ss.
18 and 19.

(2) Where the responsible parent of a minor child ceases to be a Canadian citizen under section 18 or 19, the Governor in Council may, in his discretion, direct that the said child shall cease to be a Canadian citizen if he is or thereupon becomes, under the law of any country other than Canada, a national or citizen of that country.

Resumption
of Canadian
citizenship
in the case
of minors.

(3) Where the Minister, in his discretion, permits a person, who as a minor child ceased to be a Canadian citizen, to make a declaration in accordance with the regulations, that he wishes to resume Canadian citizenship and the said person makes the declaration within one year after attaining the age of twenty-one years or within such longer period as the Minister may allow in special circumstances, such person, upon the acceptance of his declaration by the Minister, again becomes a Canadian citizen. 1950, c. 29, s. 8.

PART IV

STATUS OF CANADIAN CITIZENS AND RECOGNITION OF BRITISH SUBJECTS

Canadian
citizen a
British
subject.

21. A Canadian citizen is a British subject. 1946, c. 15, s. 26.

Rights and
obligations.

22. A Canadian citizen other than a natural-born Canadian citizen is, subject to the provisions of this Act, entitled to all rights, powers and privileges and is subject to all obligations,

duties and liabilities to which a natural-born Canadian citizen is entitled or subject and, on and after becoming a Canadian citizen, subject to the provisions of this Act, has a like status to that of a natural-born Canadian citizen. 1946, c. 15, s. 27.

23. (1) Every person who, under an enactment of a country listed in the First Schedule, is a citizen of that country, has in Canada the status of a British subject.

Citizen of country in Schedule has British subject status in Canada.

(2) Every person having in Canada the status of a British subject may be known as a British subject or as a Commonwealth citizen; and in this Act and in any other enactment or instrument, the expression "British subject" and the expression "Commonwealth citizen" have the same meaning.

May be known either as British subject or Commonwealth citizen.

(3) Any law of Canada, including this Act, and any regulation made under the authority of any law of Canada shall, unless it otherwise provides, have effect in relation to a citizen of the Republic of Ireland who is not a British subject in like manner as it has effect in relation to a British subject. 1950, c. 29, s. 10.

Citizens of Republic of Ireland.

PART V

STATUS OF ALIENS

24. (1) Real and personal property of every description may be taken, acquired, held and disposed of by an alien in the same manner in all respects as by a natural-born Canadian citizen; and a title to real and personal property of every description may be derived through, from or in succession to an alien in the same manner in all respects as through, from or in succession to a natural-born Canadian citizen.

Rights of aliens.

(2) This section does not operate so as to

Disabilities.

- (a) qualify an alien for any office or for any municipal, parliamentary or other franchise;
- (b) qualify an alien to be the owner of a Canadian ship;
- (c) entitle an alien to any right or privilege as a Canadian citizen except such rights and privileges in respect of property as are hereby expressly given to him; or
- (d) affect an estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before the 4th day of July, 1883, or in pursuance of any devolution by law on the death of any person dying before that day. 1946, c. 15, s. 29.

25. An alien is triable at law in the same manner as if he were a natural-born Canadian citizen. 1946, c. 15, s. 30.

Trial of alien.

PART VI

PROCEDURE AND EVIDENCE

Where application made.

Rep. & new, 1956, c. 6, s. 4.

26. An application under subsection (1) of section 10 for a certificate of citizenship shall be made to the court in the judicial district in which the applicant resides or as otherwise prescribed by regulation. 1956, c. 6, s. 4.

To be filed with the Clerk of the Court.

Posting.

27. An application for a certificate of citizenship shall be filed with the Clerk of the Court and shall be posted by the Clerk in a conspicuous place in his office, or as otherwise prescribed by regulation, continuously for a period of at least three months before the application is heard by the Court. 1946, c. 15, s. 32.

Filing of opposition.

Rep. & new, 1956, c. 6, s. 5.

28. At any time after the filing of an application for a certificate of citizenship and previous to the hearing of the application, any person objecting to the granting of the certificate to the applicant may file in the Court, or otherwise as prescribed in the regulations, an opposition in which shall be stated the grounds of his objection. 1956, c. 6, s. 5.

Production of evidence.

Applicant to appear personally.

29. The applicant for a certificate of citizenship shall produce to the Court such evidence as the Court may require that he is qualified and fit to be granted a certificate under the provisions of this Act, and shall personally appear before the Court for examination unless it is established to the satisfaction of the Court that he is prevented from so appearing by some good and sufficient cause. 1946, c. 15, s. 34.

Copy of favourable decision transmitted to Minister.
Rep. & new, 1956, c. 6, s. 6.

30. If the Court decides that the applicant for a certificate of citizenship is a fit and proper person to be granted such certificate and possesses the required qualifications, the decision shall be transmitted by the Clerk of the Court to the Minister in accordance with the regulations. 1956, c. 6, s. 6.

Grant and delivery of certificates.

31. When a Court has made a decision under section 30, a certificate of citizenship may in the discretion of the Minister be granted to the applicant, and the certificate shall be delivered to the applicant and the oath of allegiance taken by him as prescribed by regulation. 1956, c. 6, s. 6.

Instruction re responsibilities and privileges.

32. The Minister shall take such measures as to him may appear fitting to provide facilities to enable applicants for certificates of citizenship to receive instruction in the responsibilities and privileges of Canadian citizenship. 1956, c. 6, s. 6.

Proceedings in Court.

33. The Court, in the conduct of proceedings under this Act, shall, by appropriate ceremonies, impress upon applicants the responsibilities and privileges of Canadian citizenship. 1946, c. 15, s. 38.

PART VII

GENERAL

34. (1) The Governor in Council may make regulations generally for carrying into effect the purposes and provisions of this Act, and in particular with respect to the following matters:

- | | |
|--|---|
| <ul style="list-style-type: none"> (a) the forms of and manner of registration of declarations, certificates or other documents required to be used under this Act or deemed necessary for carrying out its purposes; (b) the time within which the oath of allegiance is to be taken after the grant or issue of a certificate of citizenship; (c) the persons before whom the oath of allegiance may be taken and the persons before whom any declarations under this Act may be made; (d) the form in which the taking of oaths of allegiance is to be attested and the registration thereof; (e) the persons by whom certified copies of oaths of allegiance may be given; and the proof in any legal proceeding of any such oaths; (f) the imposition and application of fees in respect of any registration authorized to be made by this Act or any Act heretofore in force in Canada and in respect of the making of any declaration or the grant or issue of any certificate authorized to be made, granted or issued by this Act or any Act heretofore in force in Canada, and in respect of the administration or registration of any oath; (g) the expedient and fitting procedure to be followed in the conduct of proceedings before the Court to impress upon applicants the responsibilities and privileges of Canadian citizenship; (h) the manner of proof of any qualification required for the grant of a certificate of citizenship under this Act; (i) the manner of proof of Canadian citizenship and the issuing of certificates for such purpose; (j) the registration of births of persons born outside of Canada and the extension of certificates and citizenship; (k) the surrender and cancellation of certificates of citizenship or certificates of naturalization where the holder thereof has ceased to be a Canadian citizen or British subject by reason of revocation or otherwise under this Act or under an Act that was in force in Canada at any time before the 1st day of January, 1947, as the case may be; and | <p>Regulations.</p>
<p>Rep. & new,
1952-53,
c. 23, s. 20,
ss. (1)
and (2).</p>
<p>Rep. & new,
1952-53,
c. 23, s. 20,
ss. (3).</p>
<p>Rep. & new,
1952-53,
c. 23, s. 20,
ss. (4).</p> |
|--|---|

- (l) for the delivery up and retention of certificates of citizenship or certificates of naturalization for the purpose of determining whether the holder thereof is entitled thereto.

Powers of
Governor
in Council.

- (2) The Governor in Council may
 - (a) authorize the issue of a proclamation declaring that any part of Her Majesty's dominions not listed in the First Schedule is a country of the British Commonwealth for the purposes of this Act,
 - (b) designate any court or person in any part of Canada to act as a Court for the purposes of this Act and any court or person so designated shall be deemed to be a Court for all purposes under this Act, and
 - (c) designate any officer of the Canadian Forces outside of Canada to act as a Court for the purpose of dealing with applications under subsection (1) of section 10 made by persons serving in the armed forces of Canada outside of Canada, and any officer so designated shall be deemed to be a Court under this Act for such purpose. 1946, c. 15, s. 39; 1950, c. 29, s. 14; 1952-53, c. 23, s. 20; 1956, c. 6, s. 7.

Rep. & new,
1956,
c. 6, s. 7.

Evidence of
declarations.

35. Any declaration made under this Act or under any Act heretofore in force may be proved in any legal proceeding by the production of the original declaration or of any copy thereof certified to be a true copy by the Minister or by any person authorized by him in that behalf, without proof of such authorization, and the production of the declaration or copy shall be evidence of the contents thereof and of the person therein named as declarant having made the declaration at the date therein mentioned. 1946, c. 15, s. 40.

Evidence of
certificate.

36. A certificate of citizenship or a certificate of naturalization may be proved in any legal proceeding by the production of the original certificate or of any copy thereof certified to be a true copy by the officer or persons authorized to issue such certificate of citizenship or such certificate of naturalization or by any person authorized by such officer or person in that behalf, without proof of such authorization. 1946, c. 15, s. 41.

Evidence of
entries and
certification
of copies.

37. Entries made in any register in pursuance of this Act or under any Act heretofore in force may be proved by such copies and certified in such manner as may be directed by the Minister, and the copies of any such entries shall be evidence of any matters, by this Act or by any regulation of the Governor in Council or of the Minister, authorized to be inserted in the register. 1946, c. 15, s. 42.

<p>38. (1) Where any question arises under this Act as to whether</p>	<p>Determination of Canadian domicile, etc.</p>
<p>(a) any person was lawfully admitted to Canada for permanent residence; or</p>	<p>Rep. & new, 1952-53, c. 23, s. 21.</p>
<p>(b) any person has or had Canadian domicile,</p>	
<p>the Minister shall decide the question and the decision of the Minister is final and conclusive for the purposes of this Act.</p>	
<p>(2) Where it appears from the immigration records maintained in the Department of Citizenship and Immigration that a person was or was not lawfully admitted to Canada for permanent residence, that fact shall, for the purposes of this Act, be accepted as prima facie evidence that such person was or was not lawfully admitted to Canada for permanent residence, as the case may be.</p>	<p>Immigration records are prima facie evidence.</p>
<p>(3) Where it does not appear from the records referred to in subsection (2) that a person either was or was not lawfully admitted to Canada for permanent residence, no decision shall be made under this section that such person was lawfully admitted to Canada for permanent residence unless he submits proof satisfactory to the Minister from which it may be inferred that he was lawfully admitted to Canada for permanent residence. 1952-53, c. 23, s. 21.</p>	<p>Other evidence.</p>
<p>39. (1) A person who was a British subject on the 1st day of April, 1949, and</p>	<p>British subjects born, naturalized or domiciled in Newfoundland.</p>
<p>(a) was born in Newfoundland,</p>	
<p>(b) was naturalized under the laws of Newfoundland, or</p>	
<p>(c) had Newfoundland domicile on the said 1st day of April,</p>	
<p>is a Canadian citizen.</p>	
<p>(2) A person who is a Canadian citizen by virtue of paragraph (a) of subsection (1) is a natural-born Canadian citizen.</p>	<p>Natural-born Canadian citizen.</p>
<p>(3) A person who is a Canadian citizen by virtue of paragraph (b) of subsection (1) shall be deemed to have been naturalized under the laws of Canada, and a certificate of naturalization issued under the laws of Newfoundland shall be deemed to have been issued under the laws of Canada at the date thereof.</p>	<p>Deemed naturalized under laws of Canada.</p>
<p>(4) A person who is a Canadian citizen by virtue of paragraph (c) of subsection (1), shall be deemed to have become a Canadian citizen on the day he acquired Newfoundland domicile.</p>	<p>Canadian citizenship on day he acquired Newfoundland domicile.</p>

Newfound-
land
residence
deemed
residence
in Canada.

(5) For the purposes of this Act, residence in Newfoundland shall be deemed to be residence in Canada and Newfoundland domicile means domicile in Newfoundland for at least five years. 1949, c. 6, s. 46.

Saving of
obligations
incurred
before
loss of
citizenship.

40. Where a person ceases to be a Canadian citizen, a Commonwealth citizen or a British subject, he shall not thereby be discharged from any obligation, duty or liability in respect of any act or thing done or omitted before he ceased to be a Canadian citizen, a Commonwealth citizen or a British subject. 1950, c. 29, s. 17.

Penalty for
false repre-
sentation,
improper
use of
certificate,
etc.

41. A person who

- (a) for any of the purposes of this Act knowingly makes any false representation or any statement false in a material particular;
- (b) uses another person's certificate of citizenship or certificate of naturalization to personate that other person; or
- (c) knowingly permits his certificate of citizenship or certificate of naturalization to be used to personate himself;

is guilty of an offence and is liable on summary conviction in respect of each offence to imprisonment, with or without hard labour, for a term not exceeding three months. 1950, c. 29, s. 17.

Offence and
penalty.

42. A person who violates a provision of this Act or the regulations for which violation no other fine or imprisonment is provided in this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1950, c. 29, s. 17.

New status
to apply.

43. Where, in any Act of the Parliament of Canada or any order or regulation made thereunder, any provision is made applicable in respect of

- (a) a "natural-born British subject" it shall apply in respect of a "natural-born Canadian citizen";
- (b) a "naturalized British subject" it shall apply in respect of a "Canadian citizen other than a natural-born Canadian citizen"; or
- (c) a "Canadian national" it shall apply in respect of a "Canadian citizen";

under this Act, and where in any Act, order or regulation aforesaid any provision is made in respect of the status of any such person as a Canadian national or British subject it shall apply in respect of his status as a Canadian citizen or British subject under this Act. 1946, c. 15, s. 45.

44. (1) Notwithstanding the repeal of the *Naturalization Act* and the *Canadian Nationals Act*, this Act is not to be construed or interpreted as depriving any person who is a Canadian national, a British subject or an alien as defined in the said Acts or in any other law in force in Canada of the national status he possessed on the 1st day of January, 1947. Saving.

(2) This Act is to be construed and interpreted as affording facilities for any person mentioned in subsection (1) if he should so desire to become a Canadian citizen if he is not a natural-born Canadian citizen as defined in this Act, and if he possesses the qualifications for Canadian citizenship as defined in this Act. Construction as to facilities for becoming Canadian citizen.

(3) Naturalization proceedings that were commenced under the *Naturalization Act* but not completed before the 1st day of January, 1947, may be continued as proceedings for a grant of a certificate of citizenship under this Act and, for this purpose, an application for naturalization under the *Naturalization Act* and regulations shall be deemed to have the same effect as an application for the grant of a certificate of citizenship under this Act. Continuation of proceedings commenced under the *Naturalization Act*.
Rep. & new, 1953-54, c. 34, s. 2.

(4) Every certificate of citizenship granted after the 1st day of January, 1947, pursuant to an application for naturalization made before that date is valid unless it is or has been revoked or the holder thereof otherwise ceases or has ceased to be a Canadian citizen. 1946, c. 15, s. 46; 1950, c. 29, s. 19; 1953-54, c. 34, s. 2. Validity of certificates granted after January 1, 1947.

FIRST SCHEDULE

Australia.
Canada.
Ceylon.
India.
New Zealand.
Pakistan.
Southern Rhodesia.
Union of South Africa.
United Kingdom.
1950, c. 29, s. 21.

SECOND SCHEDULE

Oath of Allegiance

I, A.B., swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her Heirs and Successors, according to law, and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian citizen.

So help me God.

1946, c. 15, Second Sch.

THE FOREIGN ENLISTMENT ACT

R.S., 1952, CHAPTER 124

An Act respecting Foreign Enlistment⁽¹⁾

SHORT TITLE

Short title. 1. This Act may be cited as the *Foreign Enlistment Act*.
1937, c. 32, s. 1.

INTERPRETATION

- Definitions. 2. In this Act,
- “Armed
forces.” (a) “armed forces” includes army, naval and air forces
or services, combatant or non-combatant, but does not
include surgical, medical, nursing and other services
engaged solely in humanitarian work and which are
under the control or supervision of the Canadian Red
Cross or other recognized Canadian humanitarian
society;
- “Convey-
ance.” (b) “conveyance” includes ships, vessels, aircraft, trains,
and motor and other vehicles;
- “Equips.” (c) “equips” in relation to a ship, includes the furnish-
ing of anything that is used for the purpose of fitting
or adapting the ship for the sea, or for naval service,
and all words relating to equipment shall be construed
accordingly;
- “Foreign
state.” (d) “foreign state” includes any foreign prince, colony,
province or part of any province or people, or any
person or persons exercising or assuming to exercise
the powers of government in or over any foreign
country, colony, province, or part of any province
or people;

(1) This Act is largely based upon The Foreign Enlistment Act, 1870 (33-34 Vict., c. 90), an Act of the Parliament of the United Kingdom which in terms extended to Canada. There are four principal points of difference:

(1) The Foreign Enlistment Act, 1870, controls foreign enlistment at the seaports, by making it unlawful for ships knowingly to take on board illegally enlisted persons. This Act is extended to cover land and air transport.

(2) This Act omits a number of administrative and procedural provisions and substitutes a power vested in the Governor in Council to make regulations in respect of these matters.

(3) The Act also clarifies the position arising from civil conflict.

(4) The Act further makes provision for recruiting in times of peace.

The original statute, that is the Act of 1937, repealed The Foreign Enlistment Act 1870, in so far as it was part of the law of Canada. The power to do so is conferred by section two of the Statute of Westminster.

- (e) "illegally enlisted person" means a person who has accepted or agreed to accept any commission or engagement, or who is about to quit Canada with intent to accept any commission or engagement, or who has been induced to go on board a conveyance under a misapprehension or false representation of the service in which such person is to be engaged with the intention or in order that such person may accept or agree to accept any commission or engagement contrary to the provisions of this Act; "Illegally enlisted person."
- (f) "within Canada" includes Canadian waters as defined for the purposes of the *Customs Act*. 1937, c. 32, s. 2. "Within Canada."

3. Any person who, being a Canadian national, within or without Canada, voluntarily accepts or agrees to accept any commission or engagement in the armed forces of any foreign state at war with any friendly foreign state, or, whether a Canadian national or not, within Canada, induces any other person to accept or agree to accept any commission or engagement in any such armed forces, is guilty of an offence under this Act. 1937, c. 32, s. 3. Offence to enlist with a foreign state at war with a friendly state. Offers inducement.

4. Any person who, being a Canadian national, quits or goes on board any conveyance with a view of quitting Canada with intent to accept any commission or engagement in the armed forces of any foreign state at war with any friendly foreign state, or, whether a Canadian national or not, within Canada, induces any other person to quit or go on board any conveyance with a view of quitting Canada, with a like intent, is guilty of an offence under this Act. 1937, c. 32, s. 4. Offence to quit or intend to quit Canada to enlist. Offers inducement.

5. Any person who induces any other person to quit Canada, or to go on board any conveyance within Canada under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the armed forces of any foreign state at war with a friendly state, is guilty of an offence under this Act. 1937, c. 32, s. 5. Offence to induce a person to enlist and quit Canada by misrepresentation.

6. (1) A person who, having the control or direction of, or being the owner of any conveyance, knowingly either takes on board or engages to take on board or has on board such conveyance, within Canada, any illegally enlisted person, is guilty of an offence under this Act. Owner of conveyance may be guilty of an offence.

(2) Such conveyance shall be detained until the trial or conviction of such person or owner and until all fines or penalties imposed on such person or owner have been paid or security approved by the Court having jurisdiction in the matter has been given for the payment thereof. 1937, c. 32, s. 6. Detaining conveyance.

Offences.

7. (1) Subject to subsection (2) any person who, within Canada, does any of the following acts, that is to say,

Builds ship.

(a) builds or agrees to build or causes to be built, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in or by the armed forces of any foreign state at war with any friendly state;

Commis-
sions ship.

(b) issues or delivers any commission for any ship with intent or knowledge or having reasonable cause to believe that the same shall or will be employed in or by the armed forces of any foreign state at war with any friendly state;

Equips ship.

(c) equips any ship with intent or knowledge or having reasonable cause to believe that the same shall or will be employed in or by the armed forces of any foreign state at war with any friendly state; or

Despatches
ships.

(d) despatches or causes or allows to be despatched, any ship, with intent or knowledge or having reasonable cause to believe that the same shall or will be employed in or by the armed forces of any foreign state at war with any friendly state:

is guilty of an offence under this Act.

Exception.

(2) A person building, causing to be built, or equipping a ship in any of the cases mentioned in subsection (1), in pursuance of a contract made before the commencement of such war as aforesaid, shall not be deemed to have committed an offence under this Act, if, forthwith, upon a proclamation of neutrality or any other proclamation notifying or bringing into operation the provisions of this Act, he gives notice to the Secretary of State for External Affairs that he is so building, causing to be built, or equipping, such ship, and furnishes such particulars of the contract and of any matters relating to or done, or to be done under the contract, as may be required by the Secretary of State for External Affairs, and, if he gives such security and takes and permits to be taken such other measures, if any, as the Secretary of State for External Affairs may prescribe for insuring that such ship shall not be despatched, delivered or removed, or otherwise dealt with, without the permission in writing of the Secretary of State for External Affairs, until the termination of such war as aforesaid. 1937, c. 32, s. 7.

Ships em-
ployed by
armed forces
of foreign
state deemed
to have been
built for such
purpose.

8. When any ship is built by order of or on behalf of any foreign state, when at war with a friendly state, or is delivered to or to the order of such foreign state, or to any person who to the knowledge of the person building is an agent of such foreign state, or is paid for by such foreign state or such agent, and is employed in or by the armed forces of such foreign state, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden lies on the builder of such ship of proving that he did not know that

the ship was intended to be so employed in or by the armed forces of such foreign state. 1937, c. 32, s. 8.

9. Any person who, within Canada, by any addition to or substitution in the armament or equipment, increases or augments, or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the war-like force of any ship, which at the time of its being within Canada was a ship in or of the armed forces of any foreign state at war with any friendly state, is guilty of an offence under this Act. 1937, c. 32, s. 9.

Arming or equipping ships for foreign state at war.

Offence.

10. Any person who, within Canada, prepares or fits out any army, naval or air expedition, to proceed against the dominions of any friendly state, is guilty of an offence against this Act. 1937, c. 32, s. 10.⁽²⁾

Outfitting expedition against friendly state.
Offence.

11. Any person who, within Canada, recruits or otherwise induces any person or body of persons to enlist or to accept any commission or engagement in the armed forces of any foreign state or other armed forces operating in such state, is guilty of an offence under this Act, except that this section does not apply to the action of foreign consular or diplomatic officers or agents in enlisting persons who are nationals of the countries which they represent, and who are not Canadian nationals, in conformity with the regulations of the Governor in Council. 1937, c. 32, s. 11.

Recruiting.

Offence.

Not applicable to consular or diplomatic officers.

12. Where any ship, goods, or merchandise, captured as prize of war within Canada in violation of Canadian neutrality, or captured by any ship that may have been built, equipped, commissioned or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within Canada by the captor, or by any agent of the captor, or by any person having come into possession thereof with a knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize or his agent, or for any person authorized in that behalf by the government of the foreign state to which such owner belongs, or in which the ship captured as aforesaid may have been duly registered, to make application to the Exchequer Court of Canada for seizure and detention of such prize, and the Court shall, on due proof of the facts, order such prize to be restored. 1937, c. 32, s. 12.

Prize of war.

Application to Court for restoration of prize.

(2) Section ten makes it unlawful to prepare or fit out an expedition. It corresponds generally to s. 11 of The Foreign Enlistment Act 1870, but it extended to air expeditions, as well as naval and military. This, together with the three preceding sections, is required to make it possible to perform the obligations incidental to neutrality. These sections are in accordance with International Law and practice. The extension to air expeditions in section 10 is essential to meet modern conditions. No similar extension has been included in the preceding sections by reason of the fact that problems arising from aircraft are adequately dealt with by other legislative provisions.

Execution of
Court Order.

Appeal.

13. Every order referred to in section 12 shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such Court; and in the meantime, and until a final order has been made, on such application the Court has power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such Court in the exercise of its ordinary jurisdiction. 1937, c. 32, s. 13.

Penalties.

Indictable
offence.

Summary
conviction.

14. Any person who is guilty of an offence against this Act shall be deemed to be guilty of an indictable offence, and shall be punishable by fine not exceeding two thousand dollars, or by imprisonment for a term not exceeding two years, with or without hard labour, or by both fine and imprisonment; but such offence may, instead of being prosecuted as an indictable offence, be prosecuted summarily under the provisions of the *Criminal Code* relating to summary convictions, and if so prosecuted, such offence shall be punishable by fine not exceeding five hundred dollars, or by imprisonment not exceeding twelve months, with or without hard labour, or by both fine and imprisonment. 1937, c. 32, s. 14.

Offending
ship for-
feited to Her
Majesty.

15. (1) Any ship in respect of which an offence under section 7 has been committed and the equipment thereof, shall be forfeited to Her Majesty.

Conveyance,
arms, etc.,
part of
expedition
forfeited.

(2) Any conveyance and the equipment thereof and all arms, ammunition and implements of war used in or forming part of an expedition in respect of which an offence has been committed under the provisions of section 10, shall be forfeited to Her Majesty. 1937, c. 32, s. 15.

Locus of
jurisdiction.

16. For the purpose of giving jurisdiction in criminal proceedings under this Act, every offence shall be deemed to have been committed, every cause or complaint to have arisen either in the place in which the same was committed or arose, or in any place in which the offender or person complained against may be. 1937, c. 32, s. 16.

Proceedings
governed
by Code.

17. Subject to the provisions of this Act, criminal proceedings arising hereunder shall be subject to and governed by the *Criminal Code*. 1937, c. 32, s. 17.

Process for
forfeiture.

18. All proceedings for forfeiture of conveyances, goods or merchandise, under the provisions of this Act, may be taken in the Exchequer Court of Canada, or in any court of competent jurisdiction. 1937, c. 32, s. 18.

Courts with
jurisdiction.

19. The Governor in Council may, from time to time, by order or regulation, provide for any or all of the following matters: Orders in
Council.
Regulations.

- (a) the application of the provisions of this Act, with necessary modifications, to any case in which there is a state of armed conflict, civil or otherwise, either within a foreign country or between foreign countries;
- (b) the seizure, detention and disposition of conveyances, goods and merchandise;
- (c) the requirement of the consent of an authority or authorities to prosecutions, seizures, detentions and forfeiture proceedings;
- (d) the designation of officers or authorities who may execute any of the provisions of this Act; and
- (e) the issue, restriction, cancellation and impounding of passports, whether within Canada or elsewhere, to the extent to which such action is deemed by him to be necessary or expedient for carrying out the general purposes of this Act. 1937, c. 32, s. 19.⁽³⁾

(3)

- (a) This section enables the Governor in Council to invoke the provisions of the Act with necessary modifications in cases of civil conflict, and to cases in which there is a state of armed conflict in existence, although there might be some doubt as to whether such armed conflict constituted war in the technical sense.
- (c) The Foreign Enlistment Act 1870, requires the sanction of the Secretary of State to the institution of forfeiture proceedings. The present position enables the Governor in Council to require consent of an authority or authorities to prosecutions, seizures, detentions, and forfeiture proceedings. It will also be observed that paragraph (d) enables the Governor in Council to designate the officers or authorities who may execute any of the provisions of the Act.
- (e) This provision is entirely new. It enables the control of passports in cases of illegal enlistment.



THE CANADIAN BILL OF RIGHTS

8-9 ELIZABETH II, CHAPTER 44

An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms⁽¹⁾

[Assented to 10th August, 1960.]

Preamble.

The Parliament of Canada, affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions:

Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them, in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which shall ensure the protection of these rights and freedoms in Canada:

THEREFORE Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

(1) This measure received first reading in the House of Commons on the 27th of June and second reading on the 7th of July, 1960. The vote for second reading was unanimous, the bill was then referred to a special committee of fifteen members. The committee held 25 sittings and heard a few expert witnesses. A certain number of amendments were made, among them was the addition of an inspiring preamble. In other words the bill was put in such a form, as stated by the Minister of Justice, "which would render it capable and readily adaptable to be reprinted, reproduced and framed . . . so that it would become familiar in a readily understandable and easily recognized forms to the greatest number of people, and especially to younger Canadians."

The Canadian Bill of Rights was considered in Committee of the Whole on the first days of August. On the fourth of the same month it was read a third time and passed, again unanimously.

The measure was considered in and passed by the Senate on the fifth of August and it received royal assent, as indicated above on the 10th of August, 1960.

To quote Mr. Edward McWhinney in the *Canadian Annual Review* for 1960 "The final enactment by Parliament in Ottawa of the new legislative-type Bill of Rights was clearly the most significant development in Canadian public law in the year 1960, as it may be suggested that it has also been over the period of slightly more than a decade since the 'emancipation' of the Canadian Supreme Court with the final abolition in 1949 of the appeal from Canadian courts to the Privy Council".

PART I

BILL OF RIGHTS

1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely,

Recognition and declaration of rights and freedoms.

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and
- (f) freedom of the press.

2. Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the *Canadian Bill of Rights*, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to

Construction of law.

- (a) authorize or effect the arbitrary detention, imprisonment or exile of any person;
- (b) impose or authorize the imposition of cruel and unusual treatment or punishment;
- (c) deprive a person who has been arrested or detained
 - (i) of the right to be informed promptly of the reason for his arrest or detention,
 - (ii) of the right to retain and instruct counsel without delay, or
 - (iii) of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful;
- (d) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self incrimination or other constitutional safeguards;
- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;

- (f) deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause; or
- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.

Duties of
Minister of
Justice.

3. The Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor in Council, examine every proposed regulation submitted in draft form to the Clerk of the Privy Council pursuant to the *Regulations Act* and every Bill introduced in or presented to the House of Commons, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Part and he shall report any such inconsistency to the House of Commons at the first convenient opportunity.

Short title.

4. The provisions of this Part shall be known as the *Canadian Bill of Rights*.

PART II

Savings.

5. (1) Nothing in Part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act.

"Law of
Canada"
defined.

(2) The expression "law of Canada" in Part I means an Act of the Parliament of Canada enacted before or after the coming into force of this Act, any order, rule or regulation thereunder, and any law in force in Canada or in any part of Canada at the commencement of this Act that is subject to be repealed, abolished or altered by the Parliament of Canada.

Jurisdic-
tion of
Parliament.

(3) The provisions of Part I shall be construed as extending only to matters coming within the legislative authority of the Parliament of Canada.

*War Meas-
ures Act*,
R.S., c. 288.

6. Section 6 of the *War Measures Act* is repealed and the following substituted therefor:

Coming into
force by
proclama-
tion.

"6. (1) Sections 3, 4 and 5 shall come into force only upon the issue of a proclamation of the Governor in Council declaring that war, invasion or insurrection, real or apprehended, exists.

Proclama-
tion to be
submitted to
Parliament.

(2) A proclamation declaring that war, invasion or insurrection, real or apprehended, exists shall be laid before Parliament forthwith after its issue, or, if Parliament is then not sitting, within the first fifteen days next thereafter that Parliament is sitting.

(3) Where a proclamation has been laid before Parliament pursuant to subsection (2), a notice of motion in either House signed by ten members thereof and made in accordance with the rules of that House within ten days of the day the proclamation was laid before Parliament, praying that the proclamation be revoked, shall be debated in that House at the first convenient opportunity within the four sitting days next after the day the motion in that House was made.

Opportunity
for debate.

(4) If both Houses of Parliament resolve that the proclamation be revoked, it shall cease to have effect, and sections 3, 4 and 5 shall cease to be in force until those sections are again brought into force by a further proclamation but without prejudice to the previous operation of those sections or anything duly done or suffered thereunder or any offence committed, or any penalty or forfeiture or punishment incurred.

Revocation
of proclama-
tion by
resolution.

(5) Any act or thing done or authorized or any order or regulation made under the authority of this Act, shall be deemed not to be an abrogation, abridgement or infringement of any right or freedom recognized by the *Canadian Bill of Rights*."

*Canadian
Bill of
Rights.*

THE WAR MEASURES ACT

R.S., 1952, CHAPTER 288

(As amended)

An Act to confer certain powers upon the Governor in Council in the event of War, Invasion, or Insurrection⁽¹⁾

SHORT TITLE

Short title.

1. This Act may be cited as the *War Measures Act*. R.S., c. 206, s. 1.

EVIDENCE OF WAR

Evidence of war, etc.

2. The issue of a proclamation by Her Majesty, or under the authority of the Governor in Council shall be conclusive evidence that war, invasion, or insurrection, real or apprehended, exists and has existed for any period of time therein stated, and of its continuance, until, by the issue of a further proclamation it is declared that the war, invasion or insurrection no longer exists. R.S., c. 206, s. 2.

POWERS OF THE GOVERNOR IN COUNCIL⁽²⁾

Special powers of Governor in Council.

3. (1) The Governor in Council may do and authorize such acts and things, and make from time to time such orders and regulations, as he may by reason of the existence of real or

(1) The War Measures Act, passed in August, 1914, constituted an expedient the purpose of which was to transfer the supreme powers of Parliament, in times of war, from Parliament to the Cabinet. This Act allowed the Cabinet, by order in council, to exercise all the powers possessed by Parliament "necessary or advisable for the security, defence, peace, order or welfare of Canada . . . by reason of the existence of real or apprehended war, invasion or insurrection".

The War Measures Act was, in this country, the counter part of the Act of the United Kingdom passed during the first war and intituled "Defence of the Realm Act". But whereas that Act (D.O.R.A.) was repealed by the Imperial Parliament after 1918, the War Measures Act remained in our statutes and it only had to be proclaimed on the first of September, 1939. Just as war eliminates all conflicts of jurisdiction by granting supremacy to the federal parliament, in the same manner peace restores the *status quo ante bellum* and gives back to the legislatures of the provinces the sovereignty they normally possess in their own field.

The War Measures Act ceases to be in force when the exceptional necessity which is supposed to have been in existence on the declaration of war has ended. This necessity however may continue to exist for a while after the end of hostilities. This is a question of fact which can only be decided by the courts. See on this subject the judgment of the Privy Council in the case of *Fort Frances Pulp and Paper Co. v. Manitoba Free Press Co.* (1923) A.C. 695. See also a decision of the Supreme Court of the United States in the case of *Hamilton v. Kentucky Distilleries Co.* (251 Q.S., 146).

(2) "In the event of war, when the national life may require for its preservation the employment of very exceptional means, the provision of peace, order and good government for the country as a whole may involve

apprehended war, invasion or insurrection deem necessary or advisable for the security, defence, peace, order and welfare of Canada; and for greater certainty, but not so as to restrict the generality of the foregoing terms, it is hereby declared that the powers of the Governor in Council shall extend to all matters coming within the classes of subjects hereinafter enumerated, that is to say:

- (a) censorship and the control and suppression of publications, writings, maps, plans, photograph, communications and means of communication;
- (b) arrest, detention, exclusion and deportation;
- (c) control of the harbours, ports and territorial waters of Canada and the movements of vessels;
- (d) transportation by land, air, or water and the control of the transport of persons and things;
- (e) trading, exportation, importation, production and manufacture;
- (f) appropriation, control, forfeiture and disposition of property and of the use thereof.

(2) All orders and regulations made under this section shall have the force of law, and shall be enforced in such manner and by such courts, officers and authorities as the Governor in Council may prescribe, and may be varied, extended or revoked by any subsequent order or regulation; but if any order or regulation is varied, extended or revoked, neither the previous operation thereof nor anything duly done thereunder, shall be affected thereby, nor shall any right, privilege, obligation or liability acquired, accrued, accruing or incurred thereunder be affected by such variation, extension or revocation. R.S., c. 206, s. 3.

4. The Governor in Council may prescribe the penalties that may be imposed for violations of orders and regulations made under this Act, and may also prescribe whether such penalties shall be imposed upon summary conviction or upon indictment, but no such penalty shall exceed a fine of five thousand dollars or imprisonment for any term not exceeding five years, or both fine and imprisonment. R.S., c. 206, s. 4.

Imposing penalties.

effort on behalf of the whole nation, in which the interest of individuals may have to be subordinated to that of the community in a fashion which requires s. 91 to be interpreted as providing for such an emergency. The general control of property and civil rights for normal purposes remains with the Provincial Legislatures. But questions may arise by reason of the special circumstances of the national emergency which concern nothing short of the peace, order and good government of Canada as a whole." Viscount Haldane in the case of *Fort Frances Pulp and Power Co. v. Manitoba Free Press Co.* (1923) A.C. 695.

Release of
arrested
alien
forbidden.

5. No person who is held for deportation under this Act or under any regulation made thereunder, or is under arrest or detention as an alien enemy, or upon suspicion that he is an alien enemy, or to prevent his departure from Canada, shall be released upon bail or otherwise discharged or tried, without the consent of the Minister of Justice. R.S., c. 206, s. 5.

Coming into
force by
proclama-
tion.
Rep. & New,
1960,
c. 44, s. 6.

6. (1) Sections 3, 4 and 5 shall come into force only upon the issue of a proclamation of the Governor in Council declaring that war, invasion or insurrection, real or apprehended, exists.

Proclama-
tion to be
submitted to
Parliament.

(2) A proclamation declaring that war, invasion or insurrection, real or apprehended, exists shall be laid before Parliament forthwith after its issue, or, if Parliament is then not sitting, within the first fifteen days next thereafter that Parliament is sitting.

Opportunity
for debate.

(3) Where a proclamation has been laid before Parliament pursuant to subsection (2), a notice of motion in either House signed by ten members thereof and made in accordance with the rules of that House within ten days of the day the proclamation was laid before Parliament, praying that the proclamation be revoked, shall be debated in that House at the first convenient opportunity within the four sitting days next after the day the motion in that House was made.

Revocation
of proclama-
tion by
resolution.

(4) If both Houses of Parliament resolve that the proclamation be revoked, it shall cease to have effect, and sections 3, 4 and 5 shall cease to be in force until those sections are again brought into force by a further proclamation but without prejudice to the previous operation of those sections or anything duly done or suffered thereunder or any offence committed or any penalty or forfeiture or punishment incurred.

Rep. & new,
1960,
c. 44, s. 6.

Canadian
Bill of
Rights.

(5) Any act or thing done or authorized or any order or regulation made under the authority of this Act, shall be deemed not to be an abrogation, abridgement or infringement of any right or freedom recognized by the *Canadian Bill of Rights*. 1960, c. 44, s. 6.⁽³⁾

(3) Section 6 as it had been enacted by the Statute of 1914 was repealed in 1960 and replaced by s. 6 above so as to bring the *War Measures Act* more in accord with the *Bill of Rights*.

Section 6 previously read as follows:

"6. The provisions of the three sections last preceding shall only be in force during war, invasion, or insurrection, real or apprehended."

See the case above mentioned of Fort Frances, etc. It is to be noted that *The National Resources Mobilization Act, 1940* (c. 13 of the Statutes of 1940 as amended by c. 29 of the Statutes of 1942), states also that "the powers conferred . . . shall remain in force only during the continuation of the state of war . . ."

See *The National Emergency Transitional Powers Act, 1945*, as amended by c. 60 of the Statutes of 1946, and also *The Continuation of Transitional Measures Act, 1947* as amended by chapter five of the Statutes of 1947-48.

PROCEDURE

7. Whenever any property or the use thereof has been appropriated by Her Majesty under the provisions of this Act, or any order in council, order or regulation made thereunder, and compensation is to be made therefor and has not been agreed upon, the claim shall be referred by the Minister of Justice to the Exchequer Court, or to a superior or county court of the province within which the claim arises, or to a judge of any such court. R.S., c. 206, s. 7. Fixing compensation.

8. Any ship or vessel used or moved, or any goods, wares or merchandise dealt with, contrary to any order or regulation made under this Act, may be seized and detained and shall be liable to forfeiture, at the instance of the Minister of Justice, upon proceedings in the Exchequer Court of Canada or in any superior court. R.S., c. 206, s. 8. Forfeitures.

9. Every court mentioned in the two sections last preceding may make rules governing the procedure upon any reference made to, or proceedings taken before, such court or a judge thereof under the said sections. R.S., c. 206, s. 9. Rules.

INTERNATIONAL BOUNDARY COMMISSION ACT

8-9 ELIZABETH II, CHAPTER 31

An Act respecting the International Boundary Commission⁽¹⁾

[Assented to 7th July, 1960.]

HER MAJESTY, by and with the advice and consent of the Senate and the House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title. **1.** This Act may be cited as the *International Boundary Commission Act*.

INTERPRETATION

- Definitions. **2.** In this Act,
- “Boundary.” (a) “boundary” means the international boundary between Canada and the United States of America as determined and marked by the Commission;
- “Boundary monument.” (b) “boundary monument” means a buoy, post, tablet, cairn or other object or structure placed, erected or maintained by the Commission to mark the boundary and includes a reference monument, triangulation station or other marker or structure placed, erected or maintained by the Commission to assist in determining the boundary;
- “Commission.” (c) “Commission” means the International Boundary Commission established pursuant to the treaty of 1908;
- “Treaty of 1908.” (d) “treaty of 1908” means the treaty between His Late Majesty King Edward VII and the United States of America respecting the demarcation of the international boundary between the United States of America and Canada signed at Washington on the 11th day of April, 1908; and

(1) The International Boundary Commission was established by treaty in 1908 to define and mark certain portions of the international boundary between Canada and the United States of America. The Commission was by treaty in 1925 required to define and mark other portions of the international boundary and was further charged with the maintenance of the boundary line between Canada and the United States of America and Canada and Alaska by the placing and maintaining of monuments and buoys and the maintaining of a boundary vista.

The treaty of 1925 was approved in that year by resolution of Parliament but no legislation was passed before 1960 with respect thereto. The purpose of the Act above was to enable the Commission to carry out more effectively in Canada its functions under the treaty of 1925.

- (e) "work" means any ditch, earthwork, building or structure of any description or any lines of telephone, telegraph or power, including posts, piers or abutments for sustaining or protecting the wires or cables of those lines. "Work."

POWERS OF COMMISSION

3. For the purpose of maintaining an effective boundary line between Canada and the United States of America, the Commission, its officers, employees and agents may at any time Commission's powers.

- (a) enter upon and pass over the land of any person in order to gain access to the boundary or to survey the boundary;
- (b) erect and maintain boundary monuments upon the land of any person; and
- (c) clear from the land of any person such trees and underbrush as the Commission deems necessary to maintain a vista ten feet in width from the boundary.

4. (1) Any work or any addition to a work that is, after the coming into force of this Act, constructed or placed within ten feet of the boundary without the permission of the Commission may be removed and destroyed by the Commission, its officers, employees or agents, and the materials contained in the work or the addition to a work may be sold, given away or otherwise disposed of, and the costs of and incidental to the removal, destruction or disposition of the work or the addition to a work, deducting therefrom any sum that may be realized by sale or otherwise, are recoverable with costs by Her Majesty from the owner as a debt to the Crown. Removal of unauthorized works.

(2) In this section "owner" includes the person authorizing or otherwise responsible for the construction or placement of any work or any addition to a work referred to in subsection (1), and the actual or reputed owner or person in possession or claiming ownership thereof for the time being, and all or any of such persons jointly and severally. "Owner."

PROHIBITION AND PENALTIES

5. Except with the permission of the Commission, no person shall Permission required to construct or enlarge work near boundary.

- (a) construct or place within ten feet of the boundary any work or any addition to a work, or
- (b) enlarge any work that is, at the time of the coming into force of this Act, within ten feet of the boundary.

6. No person shall obstruct or hinder a member of the Commission or an officer, employee or agent of the Commission in the carrying out of his duties or functions under this Act. Obstruction of Commission.

Permission
required to
remove or
possess
boundary
monument.

7. Except with the permission of the Commission, no person shall

- (a) pull down, deface, alter or remove a boundary monument erected or maintained by the Commission; or
- (b) have a boundary monument or any portion thereof in his possession or custody.

Offence.

8. Every person who, or whose employee or agent, has violated any provision of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

GENERAL

Claims in
tort against
Canadian
Commis-
sioner.

9. For the purposes of subsection (1) of section 3 of the *Crown Liability Act*, a tort committed by the person appointed by the Governor General in Council to be the Canadian member of the Commission while acting in the scope of his duties or employment shall be deemed to have been committed by a servant of the Crown while acting within the scope of his duties or employment.

Her Majesty
bound.

10. Her Majesty is bound by this Act.

THE DIPLOMATIC IMMUNITIES (COMMONWEALTH COUNTRIES) ACT

2-3 ELIZABETH II, CHAPTER 54

An Act to provide Diplomatic and Consular Immunities for Commonwealth Representatives in Canada

[Assented to 26th June, 1954.]

HER MAJESTY, by and with the advice and consent of the
Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. This Act may be cited as the *Diplomatic Immunities* Short title.
(*Commonwealth Countries*) Act.

INTERPRETATION

2. In this Act,
- | | |
|---|---|
| (a) "chief representative" means a person who is recognized by the Government of Canada as the chief representative in Canada of a country in respect of which this Act applies, whether such person is known by the title of High Commissioner for that country or by another title; and | Definitions.
"Chief representative." |
| (b) "envoy" means the envoy of a foreign sovereign power accredited to Her Majesty in right of Canada. | "Envoy." |

APPLICATION

3. (1) Subject to subsection (3), this Act applies in respect of the following countries:
- | | |
|--|---------------------|
| (a) Australia, Ceylon, India, New Zealand, Pakistan, the Union of South Africa and the United Kingdom; and | Application of Act. |
| (b) any country designated under subsection (2) as a country in respect of which this Act applies. | |
- (2) The Governor in Council may by proclamation designate any Commonwealth country, except Canada or any country mentioned in paragraph (a) of subsection (1), as a country in respect of which this Act applies.
- | | |
|--|--------------------------------------|
| | Proclamation by Governor in Council. |
|--|--------------------------------------|

Reciprocal
immunities.

(3) Where it appears to the Governor in Council that a country in respect of which this Act applies has, in relation to Canada, failed to accord immunities similar to those provided for by this Act, the Governor in Council may, by proclamation

(a) declare that this Act does not apply in respect of that country, or

(b) declare that this Act applies in respect of that country only in such manner and to such extent as is specified in the proclamation,

and upon the issue of such proclamation this Act applies in respect of that country as specified in the proclamation.

Further
proclama-
tion by
Governor
in Council.

(4) The Governor in Council may by further proclamation amend or revoke any proclamation issued under subsection (3).

IMMUNITIES

Chief Representative

Chief
representa-
tive.

4. A chief representative is entitled to the like immunities from suit and legal process and the like inviolability of residence, official premises and official archives as are accorded to an envoy.

Staff

Official staff.

5. (1) Such members of the official staff of a chief representative as are performing duties substantially corresponding to those performed by members of the official staff of an envoy are entitled to the like immunities from suit and legal process as are accorded to members of the official staff of an envoy.

Family of
chief repre-
sentative
and staff.

(2) The members of the family of a chief representative or of a member of the official staff of the chief representative to whom subsection (1) applies are entitled to the like immunities from suit and legal process as are accorded to members of a family of an envoy or of a member of the official staff of an envoy, as the case may be.

Domestic
staff.

(3) Members of the domestic staff of the chief representative are entitled to the like immunities from suit and legal process as are accorded to members of the domestic staff of an envoy.

Saving
provision.

(4) Notwithstanding anything in this section, no person who is a member of the official staff or domestic staff of a chief representative of a country and who is a citizen of Canada is entitled under this section to immunity from suit or legal process except in respect of acts done or omitted to be done in the course of the performance of his duties as a member of such staff, nor are the members of his family entitled as such under this section to any immunity from suit or legal process.

Other Officials

6. The Governor in Council may by order confer upon any person in the service of the government of a country in respect of which this Act applies, who holds any office of a kind specified in the order that, in the opinion of the Governor in Council, involves the performance of duties substantially corresponding to those which, in the case of a foreign sovereign power, would be performed by a consular officer, the like immunities from suit and legal process and the like inviolability of official archives as are accorded to consular officers of foreign sovereign powers.

Other
officials.

GENERAL

7. If in any action or proceeding a question arises as to whether any person is entitled to immunity from suit or legal process under the provisions of this Act or any order or declaration made thereunder, a certificate purporting to have been issued by or under the authority of the Secretary of State for External Affairs, containing any statement of fact relevant to that question, shall, in respect of such action or proceeding, be received in evidence as prima facie proof of the fact so stated.

Evidence.

8. Notwithstanding anything in this Act, a chief representative may waive any immunity to which, under this Act or any order or declaration made thereunder, he or his staff or the members of his family or staff, or any person in the service of the government of the country which he represents, may be entitled.

Waiver of
immunity.

9. Nothing in this Act affects any action or proceeding commenced prior to the coming into force of this Act.

Actions
begun prior
to coming
into force
of Act.

PRIVILEGES AND IMMUNITIES (UNITED NATIONS) ACT

R.S., 1952, CHAPTER 219

An Act to provide for Privileges and Immunities in respect of the United Nations and related International Organizations⁽¹⁾

SHORT TITLE

Short title. **1.** This Act may be cited as the *Privileges and Immunities (United Nations) Act*, 1947, c. 69, s. 1.

Accession to Convention by Governor in Council.
Reservation re taxation.
Orders.

2. The Governor in Council may authorize the accession of Canada to the Convention on the Privileges and Immunities of the United Nations (in this Act called the "Convention"), set out in the Schedule, with the reservation that exemption from taxation imposed by any law in Canada on salaries and emoluments shall not extend to a Canadian citizen residing or ordinarily resident in Canada, and may make such orders as appear to him to be necessary for that purpose and for the purpose of carrying out the obligations of Canada thereunder. 1947, c. 69, s. 2.

"Organization."

3. (1) For the purposes of this section, the expression "organization" means any specialized agency of which Canada is a member and which is brought into relationship with the United Nations in accordance with Article 63 of the Charter of the United Nations.

Provisions by Order in Council.

(2) Subject to subsection (3), the Governor in Council may by order provide that

(a) an organization shall have the legal capacities of a body corporate;

(1) Under Articles 104 and 105 of the Charter of the United Nations, Members of the United Nations have undertaken to grant to the Organization, its officials and the representatives of its Members the legal capacity, immunities, facilities and privileges necessary for the accomplishment of the purposes of the United Nations and for the independent exercise by representatives of Members of their functions in connection with the Organization.

Article 105 of the Charter also provides that the General Assembly may propose conventions to the Members of the United Nations for this purpose.

On February 13, 1946, the General Assembly approved a Convention (set forth in the Schedule to this Act) and proposed it for accession by each Member of the United Nations.

At the same time, the General Assembly considered "that the privileges and immunities of the United Nations should be regarded, as a general rule, as a maximum within which the various specialized agencies should enjoy such privileges and immunities....."

The present Act empowers the Governor in Council to give effect to the terms of the Convention except as to the exemption of Canadians residing in Canada from Canadian taxation on United Nations salaries and emoluments. The Bill also empowers the Governor in Council to extend

- (b) an organization shall, to such extent as may be specified in the order, have the privileges and immunities set forth in Articles II and III of the Convention for the United Nations;
- (c) representatives of states and governments that are members of an organization shall, to such extent as may be specified in the order, have the privileges and immunities set forth in Article IV of the Convention for representatives of Members, and
- (d) such officials of an organization as may be designed by the Governor in Council shall, to such extent as may be specified in the order, have the privileges and immunities set forth in Article V of the Convention for officials of the United Nations.

(3) Nothing in any order made under subsection (2) shall exempt a Canadian citizen, residing or ordinarily resident in Canada, from liability for any taxes or duties imposed by any law in Canada. 1947, c. 69, s. 3.

No tax exemption to Canadian citizen residing in Canada.

SCHEDULE

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS
ON 13 FEBRUARY 1946

WHEREAS Article 104 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes and

WHEREAS Article 105 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its

corresponding immunities, privileges and facilities to other public international organizations (such as the International Civil Aviation Organization, whose seat is in Montreal) of which Canada is a Member, once they are brought into relationship with the United Nations.

Article 57 of the Charter reads as follows:

"1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies."

Article 63 of the Charter reads as follows:

"1. The Economic and Social Council may enter into agreement with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may co-ordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations."

purposes and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

CONSEQUENTLY the General Assembly by a Resolution adopted on the 13 February 1946, approved the following Convention and proposed it for accession by each Member of the United Nations.

ARTICLE I

JURIDICAL PERSONALITY

SECTION 1. The United Nations shall possess juridical personality. It shall have the capacity:

- (a) to contract;
- (b) to acquire and dispose of immovable and movable property;
- (c) to institute legal proceedings.

ARTICLE II

PROPERTY, FUNDS AND ASSETS

SECTION 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

SECTION 3. The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

SECTION 4. The archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located.

SECTION 5. Without being restricted by financial controls, regulations or moratoria of any kind,

- (a) the United Nations may hold funds, gold or currency of any kind and operate accounts in any currency;
- (b) The United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.

SECTION 6. In exercising its rights under Section 5 above, the United Nations shall pay due regard to any representations made by the Government of any Member in so far as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

SECTION 7. The United Nations, its assets, income and other property shall be:

- (a) exempt from all direct taxes; it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services;
- (b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country;

- (c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

SECTION 8. While the United Nations will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the United Nations is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE III

FACILITIES IN RESPECT OF COMMUNICATIONS

SECTION 9. The United Nations shall enjoy in the territory of each Member for its official communications treatment not less favourable than that accorded by the Government of that Member to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications; and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

SECTION 10. The United Nations shall have the right to use codes and to despatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

ARTICLE IV

THE REPRESENTATIVES OF MEMBERS

SECTION 11. Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind;
- (b) inviolability for all papers and documents;
- (c) the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (d) exemption in respect of themselves and their spouses from immigration restrictions, aliens registration or national service obligations in the state they are visiting or through which they are passing in the exercise of their functions;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys; and also,
- (g) such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

SECTION 12. In order to secure, for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, complete freedom of

speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members.

SECTION 13. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations are present in a state for the discharge of their duties shall not be considered as periods of residence.

SECTION 14. Privileges and immunities are accorded to the representatives of Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the United Nations. Consequently a Member not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of the Member the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

SECTION 15. The provisions of Sections 11, 12 and 13 are not applicable as between a representative and the authorities of the state of which he is a national or of which he is or has been the representative.

SECTION 16. In this article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

ARTICLE V

OFFICIALS

SECTION 17. The Secretary-General will specify the categories of officials to which the provisions of this Article and Article VII shall apply. He shall submit these categories to the General Assembly. Thereafter these categories shall be communicated to the Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the Governments of Members.

SECTION 18. Officials of the United Nations shall:

- (a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (b) be exempt from taxation on the salaries and emoluments paid to them by the United Nations;
- (c) be immune from national service obligations;
- (d) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;
- (e) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;
- (f) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;
- (g) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

SECTION 19. In addition to the immunities and privileges specified in Section 18, the Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

SECTION 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.

SECTION 21. The United Nations shall co-operate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.

ARTICLE VI

EXPERTS ON MISSIONS FOR THE UNITED NATIONS

SECTION 22. Experts (other than officials coming within the scope of Article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations;
- (c) inviolability for all papers and documents;
- (d) for the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

SECTION 23. Privileges and immunities are granted to experts in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations.

ARTICLE VII

UNITED NATIONS LAISSEZ-PASSER

SECTION 24. The United Nations may issue United Nations laissez-passers to its officials. These laissez-passers shall be recognized and accepted as valid travel documents by the authorities of Members, taking into account the provisions of Section 25.

SECTION 25. Applications for visas (where required) from the holders of United Nations laissez-passers, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

SECTION 26. Similar facilities to those specified in section 25 shall be accorded to experts and other persons who, though not the holders of United Nations laissez-passers, have a certificate that they are travelling on the business of the United Nations.

SECTION 27. The Secretary-General, Assistant Secretary-General and Directors travelling on United Nations laissez-passers on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.

SECTION 28. The provisions of this article may be applied to the comparable officials of specialized agencies if the agreements for relationship made under Article 63 of the Charter so provide.

ARTICLE VIII

SETTLEMENT OF DISPUTES

SECTION 29. The United Nations shall make provisions for appropriate modes of settlement of:

- (a) disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party;
- (b) disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

SECTION 30. All differences arising out of the interpretation or application of the present convention shall be referred to the International Court of Justice, unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between the United Nations on the one hand and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court. The opinion given by the Court shall be accepted as decisive by the parties.

FINAL ARTICLE

SECTION 31. This convention is submitted to every Member of the United Nations for accession.

SECTION 32. Accession shall be effected by deposit of an instrument with the Secretary-General of the United Nations and the convention shall come into force as regards each Member on the date of deposit of each instrument of accession.

SECTION 33. The Secretary-General shall inform all Members of the United Nations of the deposit of each accession.

SECTION 34. It is understood that, when an instrument of accession is deposited on behalf of any Member, the Member will be in a position under its own law to give effect to the terms of this convention.

SECTION 35. This convention shall continue in force as between the United Nations and every Member which has deposited an instrument of accession for so long as that Member remains a Member of the United Nations, or until a revised general convention has been approved by the General Assembly and that Member has become a party of this revised convention.

SECTION 36. The Secretary-General may conclude with any Member or Members supplementary agreements adjusting the provisions of this convention so far as that Member or those Members are concerned. These supplementary agreements shall in each case be subject to the approval of the General Assembly. 1947, c. 69, Sch.

PRIVILEGES AND IMMUNITIES (NORTH ATLANTIC TREATY ORGANISATION) ACT

R.S., 1952, CHAPTER 218

An Act to provide for Privileges and Immunities in respect of the North Atlantic Treaty Organisation

SHORT TITLE

1. This Act may be cited as the *Privileges and Immunities (North Atlantic Treaty Organisation) Act*, 1951 (2nd Sess.), c. 32, s. 1. Short title.

2. The Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, set out in the Schedule, is approved and confirmed, and the Governor in Council may make such orders as appear to him to be necessary for the purpose of carrying out the obligations, duties and rights of Canada thereunder, 1951 (2nd Sess.), c. 32, s. 2. Approval of agreement and power to make necessary orders.

SCHEDULE

AGREEMENT ON THE STATUS OF THE NORTH ATLANTIC TREATY ORGANISATION, NATIONAL REPRESENTATIVES AND INTERNATIONAL STAFF

The States signatory to the present Agreement,

Considering that for the exercise of their functions and the fulfilment of their purposes it is necessary that the North Atlantic Treaty Organisation, its international staff and the representatives of Member States attending meetings thereof should have the status set out hereunder,

Have agreed as follows:

PART I—GENERAL

ARTICLE 1

In the present Agreement,

- (a) "the Organisation" means the North Atlantic Treaty Organisation consisting of the Council and its subsidiary bodies;
- (b) "the Council" means the Council established under Article 9 of the North Atlantic Treaty and the Council Deputies;

- (c) "subsidiary bodies" means any organ, committee or service established by the Council or under its authority, except those to which, in accordance with Article 2, this Agreement does not apply;
- (d) "Chairman of the Council Deputies" includes, in his absence, the Vice-Chairman acting for him.

ARTICLE 2

The present Agreement shall not apply to any military headquarters established in pursuance of the North Atlantic Treaty nor, unless the Council decides otherwise, to any other military bodies.

ARTICLE 3

The Organisation and Member States shall co-operate at all times to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connexion with the immunities and privileges set out in the present Agreement. If any Member State considers that there has been an abuse of any immunity or privilege conferred by this Agreement, consultations shall be held between that State and the Organisation, or between the States concerned, to determine whether any such abuse has occurred, and, if so, to attempt to ensure that no repetition occurs. Notwithstanding the foregoing or any other provisions of this Agreement, a Member State which considers that any person has abused his privilege of residence or any other privilege or immunity granted to him under this Agreement may require him to leave its territory.

PART II—THE ORGANISATION

ARTICLE 4

The Organisation shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

ARTICLE 5

The Organisation, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case the Chairman of the Council Deputies, acting on behalf of the Organisation, may expressly authorise the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

ARTICLE 6

The premises of the Organisation shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference.

ARTICLE 7

The archives of the Organisation and all documents belonging to it or held by it shall be inviolable, wherever located.

ARTICLE 8

1. Without being restricted by financial controls, regulations or Moratoria of any kind,

- (a) the Organisation may hold currency of any kind and operate accounts in any currency;
- (b) the Organisation may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency at the most favourable official rate of exchange for a sale or purchase as the case may be.

2. In exercising its rights under paragraph 1 above, the Organisation shall pay due regard to any representations made by any Member State and shall give effect to such representations in so far as it is practicable to do so.

ARTICLE 9

The Organisation, its assets, income and other property shall be exempt:

- (a) from all direct taxes; the Organisation will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;
- (b) from all customs duties and quantitative restrictions on imports and exports in respect of articles imported or exported by the Organisation for its official use; articles imported under such exemption shall not be disposed of, by way either of sale or gift, in the country into which they are imported except under conditions approved by the Government of that country;
- (c) from all customs duties and quantitative restrictions on imports and exports in respect of its publications.

ARTICLE 10

While the Organisation will not as a general rule claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless, when the Organisation is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Member States will whenever possible make the appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE 11

1. No censorship shall be applied to the official correspondence and other official communications of the Organisation.

2. The Organisation shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

3. Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a Member State and the Council acting on behalf of the Organisation.

PART III—REPRESENTATIVES OF MEMBER STATES

ARTICLE 12

Every person designated by a Member State as its principal permanent representative to the Organisation in the territory of another Member State, and such members of his official staff resident in that territory as may be agreed between the State which has designated them and the Organisation and between the Organisation and the State in which they will be resident, shall enjoy the immunities and privileges accorded to diplomatic representatives and their official staff of comparable rank.

ARTICLE 13

1. Any representative of a Member State to the Council or any of its subsidiary bodies who is not covered by Article 12 shall, while present in the territory of another Member State for the discharge of his duties, enjoy the following privileges and immunities:

- (a) the same immunity from personal arrest or detention as that accorded to diplomatic personnel of comparable rank;
- (b) in respect of words spoken or written and of acts done by him in his official capacity, immunity from legal process;
- (c) inviolability for all papers and documents;
- (d) the right to use codes and to receive and send papers or correspondence by courier or in sealed bags;
- (e) the same exemption in respect of himself and his spouse from immigration restrictions, aliens registration and national service obligations as that accorded to diplomatic personnel of comparable rank;
- (f) the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;
- (g) the same immunities and facilities in respect of his personal baggage as are accorded to diplomatic personnel of comparable rank;
- (h) the right to import free of duty his furniture and effects at the time of first arrival to take up his post in the country in question, and, on the termination of his functions in that country, to re-export such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;
- (i) the right to import temporarily free of duty his private motor vehicle for his own personal use and subsequently to re-export such vehicle free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

2. Where the legal incidence of any form of taxation depends upon residence, a period during which a representative to whom this Article applies is present in the territory of another Member State for the discharge of his duties shall not be considered as a period of residence. In particular, he shall be exempt from taxation on his official salary and emoluments during such periods of duty.

3. In this Article "representative" shall be deemed to include all representatives, advisers and technical experts of delegations. Each Member State shall communicate to the other Member States concerned, if they so request, the names of its representatives to whom this Article applies and the probable duration of their stay in the territories of such other Member States.

ARTICLE 14

Official clerical staff accompanying a representative of a Member State who are not covered by Articles 12 or 13 shall, while present in the territory of another Member State for the discharge of their duties, be accorded the privileges and immunities set out in paragraph 1 (b), (c), (e), (f), (h) and (i) and paragraph 2 of Article 13.

ARTICLE 15

Privileges and immunities are accorded to the representatives of Member States and their staffs not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the North Atlantic Treaty. Consequently, a Member State not only has the right, but is under a duty to waive the immunity of its representatives and members of their staffs in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the purposes for which the immunity is accorded.

ARTICLE 16

The provisions of Articles 12 to 14 above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national or to any person as its representative or as a member of the staff of such representative.

PART IV—INTERNATIONAL STAFF AND EXPERTS
ON MISSIONS FOR THE ORGANISATION

ARTICLE 17

The categories of officials of the Organisation to which Articles 18 to 20 apply shall be agreed between the Chairman of the Council Deputies and each of the Member States concerned. The Chairman of the Council Deputies shall communicate to the Member States the names of the officials included in these categories.

ARTICLE 18

Officials of the Organisation agreed upon under Article 17 shall:

- (a) be immune from legal process in respect of words spoken or written and of acts done by them in their official capacity and within the limits of their authority;
- (b) be granted, together with their spouses and members of their immediate families residing with and dependent on them, the same immunities from immigration restrictions and aliens' registration as is accorded to diplomatic personnel of comparable rank;
- (c) be accorded the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;
- (d) be given, together with their spouses and members of their immediate families residing with and dependent on them, the same repatriation facilities in time of international crisis as are accorded to diplomatic personnel of comparable rank;
- (e) have the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to re-export such furniture and effects free of duty,

subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;

- (f) have the right to import temporarily free of duty their private motor vehicles for their own personal use and subsequently to re-export such vehicles free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

ARTICLE 19

Officials of the Organisation agreed upon under Article 17 shall be exempt from taxation on the salaries and emoluments paid to them by the Organisation in their capacity as such officials. Any Member State may, however, conclude an arrangement with the Council acting on behalf of the Organisation whereby such Member State will employ and assign to the Organisation all of its nationals (except, if such Member State so desires, any not ordinarily resident within its territory) who are to serve on the international staff of the Organisation and pay the salaries and emoluments of such persons from its own funds at a scale fixed by it. The salaries and emoluments so paid may be taxed by such Member State but shall be exempt from taxation by any other Member State. If such an arrangement is entered into by any Member State and is subsequently modified or terminated, Member States shall no longer be bound under the first sentence of this Article to exempt from taxation the salaries and emoluments paid to their nationals.

ARTICLE 20

In addition to the immunities and privileges specified in Articles 18 and 19, the Executive Secretary of the Organisation, the Co-ordinator of North Atlantic Defence Production, and such other permanent officials of similar rank as may be agreed between the Chairman of the Council Deputies and the Governments of Member States, shall be accorded the privileges and immunities normally accorded to diplomatic personnel of comparable rank.

ARTICLE 21

1. Experts (other than officials coming within the scope of Articles 18 to 20) employed on missions on behalf of the Organisation shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions while present in the territory of a Member State for the discharge of their duties:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written or acts done by them in the performance of their official functions for the Organisation, immunity from legal process;
- (c) the same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;
- (d) inviolability for all papers and documents relating to the work on which they are engaged for the Organisation.

2. The Chairman of the Council Deputies shall communicate to the Member States concerned the names of any experts to whom this Article applies.

ARTICLE 22

Privileges and immunities are granted to officials and experts in the interests of the Organisation and not for the personal benefit of the individuals themselves. The Chairman of the Council Deputies shall have

the right and the duty to waive the immunity of any official or expert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organisation.

ARTICLE 23

The provisions of Articles 18, 20 and 21, above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national, except:

- (a) immunity from legal process in respect of words spoken or written or acts done by him in the performance of his official functions for the Organisation;
- (b) inviolability for all papers and documents relating to the work on which he is engaged for the Organisation;
- (c) facilities in respect of currency or exchange restrictions so far as necessary for the effective exercise of his functions.

PART V—SETTLEMENT OF DISPUTES

ARTICLE 24

The Council shall make provision for appropriate modes of settlement of:

- (a) disputes arising out of contracts or other disputes of a private character to which the Organisation is a party;
- (b) disputes involving any official or expert of the Organisation to whom Part IV of this Agreement applies who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Article 22.

PART VI—SUPPLEMENTARY AGREEMENTS

ARTICLE 25

The Council acting on behalf of the Organisation may conclude with any Member State or States supplementary agreements modifying the provisions of the present Agreement, so far as that State or those States are concerned.

PART VII—FINAL PROVISIONS

ARTICLE 26

1. The present Agreement shall be open for signature by Member States of the Organisation and shall be subject to ratification. Instruments of ratification shall be deposited with the Government of the United States of America, which will notify all signatory States of each such deposit.

2. As soon as six signatory States have deposited their instruments of ratification, the present Agreement shall come into force in respect of those States. It shall come into force in respect of each other signatory State, on the date of the deposit of its instrument of ratification.

ARTICLE 27

The present Agreement may be denounced by any Contracting State by giving written notification of denunciation to the Government of the United States of America, which will notify all signatory States of each such notification. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America.

In witness whereof the undersigned plenipotentiaries have signed the present Agreement.

Done in Ottawa this twentieth day of September, 1951, in French and in English, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the United States of America which will transmit a certified copy to each of the signatory States.

For the Kingdom of Belgium:

A. DE STAERCKE.

For Canada:

L. D. WILGRESS.

For the Kingdom of Denmark:

V. DE STEENSEN-LETH.

For France:

H. ALPHAND.

For Iceland:

C. PETURSSON.

For Italy:

A. ROSSI-LONGHI.

For the Grand Duchy of Luxembourg:

A. CLASEN.

For the Kingdom of the Netherlands:

JONKHEER A. W. L. TJARDA VAN
STARKENBORGH-STACKOUWER.

For the Kingdom of Norway:

D. BRYN.

For Portugal:

R. E. ULRICH

Reserving the non application of Article 6 in case of
expropriation.

For the United Kingdom of Great Britain and Northern Ireland:

SIR FREDERICK HOYER-MILLER

For the United States of America:

C. M. SPOFFORD.

1951 (2nd Sess.), c. 32, Sch.

THE VISITING FORCES
(BRITISH COMMONWEALTH) ACT⁽¹⁾

R.S., 1952, CHAPTER 283

An Act to make provision with respect to Forces of Her Majesty from other parts of the British Commonwealth or from a colony when visiting Canada; and with respect to the exercise of command and discipline when Forces of Her Majesty from different parts of the Commonwealth are serving together; and with respect to the attachment of members of one such force to another such force, and with respect to deserters from such forces

SHORT TITLE

1. This Act may be cited as the *Visiting Forces (British Commonwealth) Act*. 1932-33, c. 21, s. 1. Short title.

INTERPRETATION

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| 2. (1) In this Act | Definitions. |
| (a) "the Commonwealth" means the British Commonwealth of Nations; | "The Commonwealth." |
| (b) "colony" includes Aden and any territory that is under Her Majesty's protection; | "Colony." |
| (c) "court" includes a service Court of Inquiry, and any officer of a visiting force who is empowered by the law of that part of the Commonwealth to which the force belongs to review the proceedings of a service court, | "Court." |

(1) This Act makes provision for the discipline and internal administration of visiting forces from other parts of the British Commonwealth when present in Canada with consent of the Government of Canada. (For Visiting Forces from NATO and the United States see the Acts following immediately in this volume.) Prior to the enactment of the Statute of Westminster, visiting forces were enabled to maintain discipline by virtue of the provisions of the *Army Act*, which extended to Canada. The *Army* and *Air Force Acts* have of themselves no force, but require to be brought into operation annually by another Act of the Parliament of the United Kingdom styled "*The Army and Air Force Annual Act*," which provides for the basic Acts continuing in force for the year to which the Annual Act relates. Any such Annual Act, however, passed subsequent to the coming into force of the Statute of Westminster no longer has the force of law in Canada, and it is necessary to base the discipline and internal administration of such Forces upon Canadian Legislation. For the same reason it is necessary to provide for the relations of visiting forces to the civil power and to civilians, for deserters, for attachment of personnel and mutual powers of command, and also to provide temporary measures for the continuance of existing arrangements with regards to naval discipline and co-operation in naval matters.

"Sentence."	or to investigate charges, or himself to dispose of charges, and the expression "sentence" shall be construed accordingly;
"Forces."	(d) "forces" includes reserve and auxiliary forces;
"Home force."	(e) "home force" includes any body, contingent, or detachment of any of the home forces, wherever serving;
"Home forces."	(f) "home forces" means the naval, army and air forces of Her Majesty raised in Canada;
"Internal administration."	(g) "internal administration" in relation to any visiting force includes the administration of the property of a deceased member of the force;
"Member."	(h) "member" in relation to a visiting force includes any person who is by the law of that part of the Commonwealth to which the force belongs subject to the naval, army or air force law thereof, and who, being a member of another force, is attached to the visiting force, or, being a civilian employed in connection with the visiting force, entered into his engagement outside of Canada; and
"Visiting force."	(i) "visiting force" means any body, contingent or detachment of the naval, army and air forces of Her Majesty raised in the United Kingdom, the Commonwealth of Australia, the Dominion of New Zealand or the Union of South Africa, that, with the consent of Her Majesty's Government in Canada, is lawfully present in Canada.

The enactment of legislation by all the members of the Commonwealth for this general purposes had been recommended by the Conference on the Operation of Dominion Legislation, 1929, in Paragraph 44 of the Report.

The matter had also been considered by the Imperial Conference of 1930, and the following statement is set forth at pp. 25 and 26 of the Summary of Proceedings:

"(f) Defence Questions.

"(i) Discipline of the Armed Forces.

"In the very short time at the disposal of the Conference, it was impossible to do more than examine some aspects of the practical problems which will be involved in the carrying out of the recommendations contained in paragraph 44 of the Report of the Conference on the Operation of Dominion Legislation.

"It is assumed that all Governments will desire to take such action as may be necessary to secure (1) that the military discipline of any of the armed forces of the Commonwealth when present, by consent, within territory of another, rests upon a statutory basis, and (2) that there shall be no period of time during which the legal basis of military discipline could on any ground be impeached.

"The methods by which the above two objects can best be attained must necessarily be a matter for the Governments themselves.

"As the action to be taken to give effect to the recommendations contained in paragraph 44 of the Report of the Conference on the Operation of Dominion Legislation is likely to take some time, it was agreed that all the Governments concerned will take such steps as may be necessary to provide against possible difficulties during that period."

(2) An order in council under this Act may be revoked or varied by a subsequent order in council. 1932-33, c. 21, s. 2; 1951 (2nd Sess.), c. 7, s. 14.

Order in council.

3. (1) When a visiting force is present in Canada it shall be lawful for the naval, army and air force courts and authorities (in this Act referred to as the "service courts" and "service authorities") of that part of the Commonwealth to which the force belongs, to exercise within Canada in relation to members of such force in matters concerning discipline and in matters concerning the internal administration of such force all such powers as are conferred upon them by the law of that part of the Commonwealth.⁽²⁾

Discipline and internal administration of visiting forces.

(2) The members of any such service court as aforesaid exercising jurisdiction by virtue of this Act, and witnesses appearing before any such court, shall enjoy the like immunities and privileges as are enjoyed by a service court exercising jurisdiction by virtue of the laws of Canada and by witnesses appearing before such a court.

Privileges and immunities of service court.

(3) Where any sentence has, whether within or without Canada, been passed upon a member of a visiting force by a service court of that part of the Commonwealth to which the force belongs, then for the purposes of any legal proceedings within Canada the court shall be deemed to have been properly constituted, and its proceedings shall be deemed to have been regularly conducted, and the sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of that part of the Commonwealth, and if executed according to the tenor thereof shall be deemed to have been lawfully executed, and any member of a visiting force who is detained in custody in pursuance of any such sentence, or pending the determination by such a service court as aforesaid of a charge brought against him, shall for the purposes of any such proceedings as aforesaid be deemed to be in lawful custody.

Legality of sentence, constitution of court, and proceedings.

(4) For the purposes of any such proceedings as aforesaid a certificate under the hand of the officer commanding a visiting force that a member of that force is being detained for either of the causes aforesaid is conclusive evidence of the cause of

Certificates as evidence.

(2) Section three provides for the discipline and internal administration of visiting forces. An examination of the definition of "Visiting Forces" in the interpretation section will show that it is restricted to forces from other parts of the British Commonwealth, lawfully present in Canada with the consent of the Government of Canada. The effect of this section is to give such visiting forces the customary extra-territorial immunities with regard to internal discipline and administration.

his detention, but not of his being such a member, and a certificate under the hand of such an officer that the persons specified in the certificate sat as a service court of that part of the Commonwealth to which the force belongs is conclusive evidence of that fact.

Proceedings
not to be
questioned.

(5) No proceedings in respect of the pay, terms of service or discharge of a member of a visiting force shall be entertained by any court of Canada.

Power of
Minister
to order
arrest, if so
requested.

(6) For the purpose of enabling such service courts and such service authorities as aforesaid to exercise more effectively the powers conferred upon them by this section, the Minister of National Defence, if so requested by the officer commanding a visiting force or by the Government of that part of the Commonwealth to which the force belongs, may from time to time by general or special orders to any home force direct the members thereof to arrest members of the visiting force alleged to have been guilty of offences against the law of that part of the Commonwealth and to hand over any person so arrested to the appropriate authorities of the visiting force. 1932-33, c. 21, s. 3; 1951 (2nd Sess.), c. 7, s. 14.

Powers as
to home
forces may
upon request
be exercised
as to visiting
force.

4. (1) The Governor in Council may authorize any Government department, minister of the Crown, or other person in Canada, to perform, at the request of such authority or officer as may be specified in the order, but subject to such limitations as may be so specified, any function in relation to a visiting force and members thereof which that department, minister or person performs or could perform in relation to a home force of like nature to the visiting force, or in relation to members of such a force and, for the purpose of the exercise of any such function, any power exercisable by virtue of any enactment by the minister, department or person in relation to a home force or members thereof is exercisable by him or them in relation to the visiting forces and members thereof.

(2) Nothing in subsection (1) authorizes any interference in matters relating to discipline or to the internal administration of the force.

Temporary
detention.

(3) If the Governor in Council so provides, members of a visiting force if sentenced by a service court of that part of the Commonwealth to which the force belongs to penal servitude, imprisonment or detention may, under the authority of the Minister of National Defence, given at the request of the officer commanding the visiting force, be temporarily detained in custody in prisons or detention barracks in Canada, and if so sentenced to imprisonment may, under the like authority, be

imprisoned during the whole or any part of the term of their sentences in prisons in Canada, and the Governor in Council may by the same or a subsequent order make provision with respect to any of the following matters, that is to say, the reception of such persons from, and their return to, the service authorities concerned, their treatment while in such custody, or while so imprisoned, the circumstances under which they are to be released, and the manner in which they are to be dealt with in the event of their unsoundness of mind while in such custody, or while so imprisoned.

Imprisonment.

Orders as to treatment, release, etc.

(4) Any costs incurred in the maintenance and return of, or otherwise in connection with, any person dealt with in accordance with the provisions of subsection (3) shall be defrayed in such manner as may, with the consent of the Minister of Finance, be agreed between the Minister of National Defence and the Government of that part of the Commonwealth which is concerned.

Costs.

(5) Subject as hereinafter provided, any enactment (whether contained in the *National Defence Act*, or any other statute) that

Provisions applicable to visiting force same as apply to a home force of a like nature.

- (a) exempts, or provides for the exemption of, any vessel, vehicle, aircraft, machine or apparatus of, or employed for the purposes of the home forces or any of them from the operation of any enactment;
- (b) in virtue of a connection with the home forces or any of them, confers a privilege or immunity on any persons;
- (c) in virtue of such a connection, except any property, trade or business, in whole or in part, from the operation of any enactment, or from any tax, rate, imposition, toll or charge;
- (d) imposes upon any person or undertaking obligations in relation to the home forces, or any of them, or any member or service court thereof; or
- (e) penalizes misconduct by any person in relation to the home forces or any of them, or any member or service court thereof,

applies, with any necessary modifications, in relation to a visiting force as it would apply in relation to a home force of a like nature to the visiting force.

(6) The Governor in Council may direct that any such enactment either shall not apply, or shall apply with such exceptions and subject to such adaptations or modifications as may be specified.

Application
of order
in council.

(7) An order in council under this section may apply either generally, or in relation to visiting forces from any particular part of the Commonwealth, or in relation to any particular visiting force, or in relation to any particular place. 1932-33, c. 21, s. 4; 1951 (2nd Sess.), c. 7, s. 14.⁽³⁾

Application
of section.

5. (1) The forces to which this section applies are such of the naval, army and air forces of Her Majesty raised in the United Kingdom, the Commonwealth of Australia, the Dominion of New Zealand or the Union of South Africa, as the Governor in Council may direct.

Deserters
and
absentees.

(2) Subject to this section, subsections (1) to (5) of section 202 of the *National Defence Act* apply in relation to a deserter or absentee without leave from any force to which this section applies (including any member of a reserve or auxiliary force who, having failed to obey a notice calling upon him to appear at any place for service, is by the law of that part of the Commonwealth to which the force belongs liable to the same punishment as a deserter, or to the same punishment as an absentee without leave), as they apply in relation to a deserter or absentee without leave from a home force.

Apprehen-
sion on
request.

(3) No person who is alleged to be a deserter from any such force as aforesaid shall be apprehended or dealt with under this section except in compliance with a specific request from the Government of that part of the Commonwealth to which the force belongs, and a person so dealt with shall be handed over to the authorities of that part of the Commonwealth at such place on the coast or frontier of Canada as may be agreed.

(4) A person who is alleged to be a deserter or absentee without leave from a visiting force may also be apprehended and dealt with under this section in compliance with a request, whether specific or general, from the officer commanding that force, and shall, if that force is still present in Canada, be handed over to the officer commanding that force at the place where the force is stationed.

Certificate
of Minister
evidence of
request.

(5) For the purposes of any proceedings under this section

(a) a document purporting to be a certificate under the hand of the Secretary of State for External Affairs or the Minister of National Defence, that a request has

(3) This section deals with the relations of visiting forces to the civil power and to civilians. The first subsection enables the Governor in Council to authorize the furnishing of the aid to the civil power to visiting forces. The second subsection gives legal authority for detention and custody of prisoners. The third subsection entitles, in so far as the Governor in Council directs, the visiting forces to exemption and immunities similar to those enjoyed by Canadian forces, and penalizes offences against visiting forces.

Considering the entire section, its effect is to place visiting forces in substantially the same legal position that they were in prior to the enactment of the Statute of Westminster, the foundation of the position being Canadian legislation, instead of the operation of the *Army Act*.

been made under subsection (3), is admissible without proof as evidence of such a request; and

- (b) a document purporting to be a certificate under the hand of the officer commanding a unit or detachment of any force to which this section applies that a named and described person was at the date of the certificate a deserter, or absentee without leave, from that force is admissible without proof as evidence of the facts so certified, 1932-33, c. 21, s. 5; 1951 (2nd Sess.), c. 7, s. 14.⁽⁴⁾

Certificate of commanding officer evidence of desertion.

6. (1) The forces, other than home forces, to which this section applies are the naval, army and air forces of Her Majesty raised in the United Kingdom, the Commonwealth of Australia, the Dominion of New Zealand or the Union of South Africa.

Application of section.

(2) The Governor in Council

- (a) may attach temporarily to a home force any member of another force to which this section applies who is placed at his disposal for the purpose by the service

Temporary attachments to a home force.

(4) This section is not confined to visiting forces, but it makes a general provision with regard to deserters from forces raised in other parts of the British Commonwealth. Together with corresponding sections which are being enacted in the United Kingdom and in other parts of the British Commonwealth, it affords a statutory basis for the continuance of the co-operation with regard to deserters that was formerly secured by the general application of the *Army Act* and other defence legislation of the Parliament of the United Kingdom.

Subsection 2 of this section refers to paragraphs (1) to (4) of section 154 of the *Army Act*. These are as follows:

(1) Upon reasonable suspicion that a person is a deserter or absentee without leave, it shall be lawful for any constable, or if no constable can be immediately met with, then for any officer or soldier or other person, to apprehend such suspected person, and forthwith to bring him before a court of summary jurisdiction:

(2) A justice of the peace, magistrate, or other person having authority to issue a warrant for the apprehension of a person charged with crime may, if satisfied by evidence on oath that a deserter or absentee without leave is or is reasonably suspected to be within his jurisdiction, issue a warrant authorizing such deserter or absentee without leave to be apprehended and brought forthwith before a court of summary jurisdiction:

(3) Where a person is brought before a court of summary jurisdiction charged with being a deserter or absentee without leave under this Act, such court may be with the case in like manner as if such person were brought before the court charged with an indictable offence, or in Scotland an offence:

(4) The court, if satisfied either by evidence on oath or by the confession of such person that he is a deserter or absentee without leave, shall forthwith, as it may seem to the court most expedient with regard to his safe custody, cause him either to be delivered into military custody in such manner as the court may deem most expedient, or until he can be delivered, to be committed to some prison, police station, or other place legally provided for the confinement of persons in custody, for such reasonable time as appears to the court reasonably necessary for the purpose of delivering him into military custody.

authorities of that part of the Commonwealth to which the other force belongs; and

To force of another part of Commonwealth.

- (b) subject to anything to the contrary in the conditions applicable to his service, may place any member of a home force at the disposal of the service authorities of another part of the Commonwealth for the purpose of being attached temporarily by those authorities to a force to which this section applies belonging to that part of the Commonwealth.

Law applicable to member of force attached to home force.

- (3) Whilst a member of another force is by virtue of this section attached temporarily to a home force, he is subject to the law relating to the Royal Canadian Navy, Canadian Army or Royal Canadian Air Force, as the case may be, in like manner as if he were a member of the home force, and shall be treated and have the like powers of command and punishment over members of the home force to which he is attached as if he were a member of that force of relative rank.

- (4) The Governor in Council may direct that in relation to members of a force of any part of the Commonwealth specified the statutes relating to the home forces shall apply with such exceptions and subject to such adaptations and modifications as may be so specified.

Mutual power of command when forces serving together or in combination.

- (5) When a home force and another force to which this section applies are serving together, whether alone or not,

- (a) any member of the other force shall be treated and shall have over members of the home force the like powers of command as if he were a member of the home force of relative rank, and
- (b) if the forces are acting in combination, any officer of the other force appointed by Her Majesty, or in accordance with regulations made by or by authority of Her Majesty, to command the combined force, or any part thereof, shall be treated and shall have over members of the home force the like powers of command and punishment, and may be invested with the like authority to convene, and confirm the findings and sentences of, courts martial as if he were an officer of the home force of relative rank and holding the same command.

Forces serving together or in combination.

- (6) For the purposes of this section, forces shall be deemed to be serving together or acting in combination if and only if they are declared to be so serving or so acting by order of the Governor in Council, and the relative rank of members of the

home forces and of other forces shall be such as may be prescribed by regulations made by Her Majesty. 1932-33, c. 21, s. 6; 1951 (2nd Sess.), c. 7, s. 14.⁽⁵⁾

7. Subject to such exceptions, adaptations and modifications as the Governor in Council may direct, this Act applies

Application of Act to mandated territories, colonies, and other territories.

- (a) in relation to any forces and to the officers and members of such forces raised in any territory in respect to which a mandate on behalf of the League of Nations is being exercised by Her Majesty's Government in the United Kingdom;
- (b) in relation to any forces and to the officers and members of such forces raised in any territory in respect to which such a mandate is being exercised by Her Majesty's Government in a Dominion;
- (c) in relation to any forces and to the officers and members of such forces raised in a colony; and
- (d) in relation to any forces and to the officers and members of such forces raised in any territory which is being administered by Her Majesty's Government in the United Kingdom or by Her Majesty's Government in a Dominion. 1932-33, c. 21, s. 7.

8. So far as regards any naval force and the members of any such force, the provisions of this Act shall be deemed to be in addition to and not in derogation of such of the provisions of any Act of the Parliament of the United Kingdom or of the Parliament of any other part of the Commonwealth as are for the time being applicable to that force and the members thereof. 1932-33, c. 21, s. 8.⁽⁶⁾

Saving for other enactments.

(5) This section deals with the attachment of personnel and mutual powers of command. The co-operation in defence matters which has existed now for many years involves the interchange of officers and men, and it is necessary to enable such officers and men to carry on their duties on the same basis as if they were members of the forces to which they are attached. Subsection (4) deals with combined operations and makes it legally possible to have a single command, subject, of course, to the consent of the Governments of the component forces.

(6) The Army and Air Force Acts being dependent for their force and effect upon *The Army and Air Force Annual Act* passed annually by the Parliament of the United Kingdom, are no longer in themselves, subsequent to the passing of the Statute of Westminster, applicable to Canada. Naval discipline, however, is based upon permanent enactments, the continued operation of which was not affected by the coming into force of the Statute of Westminster. Further, Canadian Naval Forces are still organized on the basis of statutes which invoke the operation of the Naval Discipline Acts, and it has been thought desirable to insure the continuance of the existing position with respect to Naval discipline. It will always be open to the Parliament of Canada to bring naval forces solely within the operation of the first four sections of the Act, upon the enactment of new legislation to provide for their organization, or, at any time, to repeal this section and bring naval forces solely within the operation of the first four sections of the Act, if the present course is found to be inconvenient.

THE VISITING FORCES (UNITED STATES OF AMERICA) ACT⁽¹⁾

R.S., 1952, CHAPTER 285

An Act to make provision with respect to Forces of the United States of America when visiting Canada and with respect to the exercise of discipline and to the internal administration of such forces

SHORT TITLE

Short Title. **1.** This Act may be cited as the *Visiting Forces (United States of America) Act*. 1947, c. 47, s. 1.

INTERPRETATION

Definitions.	2. In this Act,
"Home forces."	(a) "home forces" means the naval, army or air forces of Her Majesty raised in Canada;
"Home force."	(b) "home force" includes any body, contingent or detachment of any of the home forces;
"Service authorities."	(c) "service authorities" means naval, army or air force authorities;
"Service court."	(d) "service court" means a naval, army or air force court and includes a service court of inquiry, and any officer of a United States force who is empowered by the law of the United States of America to review the proceedings of a service court of the United States of America, or to investigate charges, or himself to dispose of charges, and the expression "sentence" shall be construed accordingly;
"Sentence."	
"United States force."	(e) "United States force" means any body, contingent or detachment of the naval, army or air forces of the United States of America that, with the consent of the Government of Canada, is lawfully present in Canada or on board any of Her Majesty's Canadian ships or aircraft. 1951 (2nd Sess.), c. 7, s. 22.

(1) *See also* The Visiting Forces (British Commonwealth) Act, R.S., 1952, c. 283, printed in this volume, *supra*.

The purpose of the present Act is to make provision for the discipline and internal administration of visiting forces from the United States of America when present in Canada with the consent of the Government of Canada.

3. Subject to the provisions of this Act, when a United States force is present in Canada or on board any of Her Majesty's Canadian ships or aircraft, the service courts and service authorities of the United States of America may exercise within Canada or on board any such ship or aircraft in relation to members of that force all such powers as are conferred upon them by the law of the United States of America. 1947, c. 47, s. 3.

Discipline and internal administration of United States force.

4. (1) Nothing in section 3 affects the jurisdiction of any civil court in Canada to try a member of a United States force for any act or omission constituting an offence against any law in force in Canada whether or not proceedings with respect to such act or omission have been instituted by a United States service authority or before a United States service court.

Jurisdiction of civil courts in Canada not affected.

(2) If a person sentenced by a service court exercising jurisdiction by virtue of section 3 to punishment for an offence is afterwards tried by any civil court in Canada in respect of any act or omission that constituted that offence, the civil court shall, in awarding punishment in respect of that act or omission, have regard to any punishment imposed on him by the said sentence.

In case of subsequent trial by civil court.

(3) A service court does not have jurisdiction by virtue of section 3 to try any person for any act or omission constituting an offence for which he has been acquitted or convicted by any civil court in Canada. 1947, c. 47, s. 4.

In case of previous trial by civil court.

5. (1) Subsections (2), (3) and (4) of section 200 of the *National Defence Act* apply in relation to United States courts martial, except that

Laws to apply to U.S.A. court martial.

(a) a person required to give evidence before a United States court martial may be summoned only by a magistrate or justice of the peace; and

(b) a magistrate or justice of the peace shall summon, in the manner prescribed by the Governor in Council, a witness to appear before a United States court martial when requested so to do by

(i) the authority by whom the court martial was convened,

(ii) the officer presiding at the court martial, or

(iii) an officer designated to take a deposition to be read in evidence before the court martial.

(2) Section 244 of the *National Defence Act* applies to any person duly summoned pursuant to subsection (1) as though the court martial before which he is summoned to appear were a court martial within the Canadian Forces.

Application of s. 244.

Meaning
of "United
States court
martial."

(3) For the purposes of this section, "United States court martial" means a general court martial, a special court martial or a summary court martial within a United States force or any military or civil officer designated to take a deposition to be read in evidence before such a court martial. 1951 (2nd Sess.), c. 7, s. 22.

Privileges
and
immunities
of service
court.

6. The members of any service court of the United States of America exercising jurisdiction by virtue of this Act, and witnesses appearing before any such court, enjoy the like immunities and privileges as are enjoyed by a service court exercising jurisdiction by virtue of the laws of Canada, and by witnesses appearing before such a court. 1947, c. 47, s. 5.

Legality of
sentence,
constitution
of court, and
proceedings.

7. (1) Where any sentence has, whether within or without Canada, been passed upon a member of a United States force by a service court of the United States of America, then for the purposes of any legal proceedings within Canada the court shall be deemed to have been properly constituted, and its proceedings shall be deemed to have been regularly conducted, and the sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of the United States of America, and if executed according to the tenor thereof shall be deemed to have been lawfully executed, and any member of a United States force who is detained in custody in pursuance of any such sentence, or pending the determination by such a service court as aforesaid of a charge brought against him, shall for the purposes of any such legal proceedings be deemed to be in lawful custody.

Certificates
as evidence.

(2) For the purposes of any legal proceedings within Canada a certificate under the hand of the officer commanding a United States force that a member of that force is being detained in either of the circumstances described in subsection (1) is conclusive evidence of the cause of his detention, but not of his being such a member, and a certificate under the hand of such an officer that the persons specified in the certificate sat as a service court of the United States of America is conclusive evidence of that fact. 1947, c. 47, s. 6.

Power of
Minister
to order
arrest, if so
requested.

8. For the purpose of enabling the service courts and service authorities of the United States of America to exercise more effectively the powers conferred upon them by this Act, the Minister of National Defence, if so requested by the officer commanding a United States force or by the Government of the United States of America, may from time to time by general or special orders to any home force direct the members thereof to arrest members of the United States force alleged to have been guilty of offences against the law of the United States of America and to hand over any person so arrested to the appropriate authorities of the United States force. 1947, c. 47, s. 7.

9. (1) Any member of a United States force, if sentenced by a service court of the United States of America to penal servitude, imprisonment or detention may, under the authority of the Minister of National Defence, given at the request of the officer commanding the United States force, be temporarily detained in custody in a detention barrack in Canada. Temporary detention.

(2) Where a member of a United States force is subject to detention in a detention barrack in Canada, pursuant to subsection (1), the provisions of any enactment in relation to the reception of prisoners from and their return to the service authorities of the home forces, their treatment while in custody in such detention barrack, and the circumstances in which they are to be released, shall, with any necessary modification, apply in relation to the member of the United States force in like manner as they apply in relation to members of a home force. Imprisonment, treatment while in custody and release.

(3) In subsection (2) the expression "enactment" includes the Queen's Regulations and Orders for the Royal Canadian Navy, the Queen's Regulations and Orders for the Canadian Army, the Queen's Regulations and Orders for the Royal Canadian Air Force, and any rules, regulations and orders made under any enactment. 1947, c. 47, s. 8. "Enactment" defined.

10. The provisions of the *Criminal Code* relating to unlawful drilling, the making or possessing of explosives or the possessing or carrying weapons do not apply to a member of a United States force acting in the course of his duty; and it is lawful for a member of a United States force, acting in the course of his duty, to possess and carry explosives, ammunition and firearms. 1947, c. 47, s. 9.⁽²⁾ Certain provisions of *Criminal Code* not applicable.

(2) The provisions of the *Criminal Code* which are declared not applicable to a member of a United States force by this section are the following: section 71, sections 77 to 80 and sections 82 to 98.

THE VISITING FORCES (NORTH ATLANTIC TREATY) ACT

R.S., 1952, CHAPTER 284

(as amended)

An Act to implement the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed on the 19th day of June, 1951⁽¹⁾

SHORT TITLE

Short title. **1.** This Act may be cited as the *Visiting Forces (North Atlantic Treaty) Act*. 1951 (2nd Sess.), c. 28, s. 1.⁽²⁾

INTERPRETATION

Definitions.	2. In this Act ⁽³⁾
"Agreement."	(a) "Agreement" means the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, set out in the Schedule;
"Associated state."	(b) "associated state" means a state, other than Canada, (i) that is a party to the agreement, or (ii) that is designated as an associated state under section 5;
"Canadian Forces."	(c) "Canadian Forces" means the naval, army or air forces of Her Majesty raised by Canada;
"Civil court."	(d) "civil court" means a court of ordinary criminal jurisdiction in Canada and includes a court of summary jurisdiction;
"Civil prison."	(e) "civil prison" means any prison, gaol or other place in Canada in which offenders sentenced by a civil court in Canada to imprisonment for less than two years can be confined;

(1) The purpose of this Act is to implement the Agreement, attached as a Schedule, between the Parties to the North Atlantic Treaty regarding the status of their forces in so far as the Agreement relates to the presence of visiting forces in Canada. Canada became a signatory to the Agreement on the 19th of June, 1951.

(2) The short title is consistent with *The Visiting Forces (British Commonwealth) Act*, (R.S., 1952, c. 283, *supra*) and *The Visiting Forces (United States of America) Act*, (R.S., 1952, c. 285, *supra*) which relate to matters similar to those dealt with in this Bill.

(3) The words and phrases defined in paragraphs (c), (d), (e), (f), (g), (i) and (j) are given the same meaning as in *The National Defence Act*. The definitions of "associated state" in paragraph (b) and "visiting force" in paragraph (k) are consistent with sub-paragraphs (a), (b) and (d) of paragraph 1 of Article I of the Agreement and, in conjunction with sections 4 and 5, would enable the Governor in Council to apply this Act to States other than Parties to the North Atlantic Treaty, for example, to British Commonwealth countries other than the United Kingdom.

- (f) "detention barrack" means a place designated as such under the *National Defence Act*; "Detention barrack."
- (g) "penitentiary" means a penitentiary within the meaning of the *Penitentiary Act*, and includes any prison or place in which a person sentenced to imprisonment for two years or more by a civil court having jurisdiction in the place where the sentence is imposed can, for the time being, be confined; "Penitentiary."
- (h) "regulations" means regulations made by the Governor in Council under this Act; "Regulations."
- (i) "service court" means a naval, army or air force court martial and includes the service authorities of an associated state who are empowered by the laws of that state to deal with charges; "Service court."
- (j) "service prison" means a place designated as such under the *National Defence Act*; "Service prison."
- (k) "visiting force" means any naval, army or air forces of an associated state present in Canada in connection with official duties; and in the case of an associated state that is a party to the Agreement, includes civilian personnel accompanying such forces who are in the employ of any such forces, and who are not stateless persons, nor nationals of any state that is not a party to the Agreement, nor nationals of, nor ordinarily resident in, Canada; and in the case of any other associated state includes civilian personnel designated by the Governor in Council under section 5 as a civilian component of a visiting force. 1951 (2nd Sess.), c. 28, s. 2. "Visiting force."

PART I

APPROVAL OF AGREEMENT AND APPLICATION OF ACT

- 3. The Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, set out in the Schedule, is approved. 1951 (2nd Sess.), c. 28, s. 3. Agreement approved.
- 4. This Act applies in respect of an associated state only when the Governor in Council has pursuant to section 5 declared it to be applicable in respect of that state, and it applies in respect of that state only to the extent declared by the Governor in Council pursuant to that section. 1951 (2nd Sess.), c. 28, s. 4. Application of Act.
- 5. The Governor in Council may by proclamation
 - (a) designate any country as an associated state for the purposes of this Act;
 - (b) declare the extent to which this Act is applicable in respect of any associated state;
 Proclamations.

- (c) declare any of the provisions of the *Visiting Forces (British Commonwealth) Act*, the *Visiting Forces (United States of America) Act* or *The American Bases Act, 1941*, being No. 12 of the Acts of Newfoundland, 1941, to be inapplicable in respect of any associated state;
- (d) designate civilian personnel as a civilian component of a visiting force belonging to an associated state that is not a party to the Agreement; and
- (e) revoke or amend any designation or declaration made under paragraph (a), (b), (c) or (d). 1951 (2nd Sess.), c. 28, s. 5.

PART II

DISCIPLINARY JURISDICTION OF VISITING FORCES

Primary
right of
civil courts
to exercise
jurisdiction.

6. (1) Except in respect of offences mentioned in subsection (2) of section 7, the civil courts have the primary right to exercise jurisdiction in respect of any act or omission constituting an offence against any law in force in Canada alleged to have been committed by a member of a visiting force.

Previous
trial by
service
courts.

(2) Where a member of a visiting force has been tried by a service court of that visiting force and has been convicted or acquitted, he may not be tried again by a civil court for the same offence. 1951 (2nd Sess.), c. 28, s. 6.⁽⁴⁾

Jurisdiction
of service
courts.

7. (1) Subject to the provisions of this Part, the service authorities and service courts of a visiting force may exercise within Canada in relation to members of that force all the criminal and disciplinary jurisdiction that is conferred upon them by the law of the associated state to which they belong.

When
service
courts have
primary
right to
exercise
jurisdiction.

(2) With respect to the alleged commission by a member of a visiting force of an offence respecting

- (a) the property or security of the associated state;
- (b) the person or property of another member of the visiting force;
- (c) the person or property of a dependant of another member of the visiting force; or

(4) This section preserves the primary right of Canadian civil courts to exercise jurisdiction in respect of all offences other than those relating to the internal administration and discipline of a visiting force and would prevent an accused being tried twice for the same offence. It gives effect to sub-paragraph (b) of paragraph 3 and paragraph 8 of Article VII of the Agreement.

(d) an act done or anything omitted in the performance of official duty,

the service courts of the visiting force have the primary right to exercise jurisdiction.

(3) Where a member of a visiting force has been tried by a civil court and has been convicted or acquitted, he may not be tried again within Canada for the same offence by a service court of that visiting force, but nothing in this subsection prevents that service court from trying within Canada a member of the visiting force for any violation of rules of discipline arising from an act or omission that constituted an offence for which he was tried by a civil court. 1951 (2nd Sess.), c. 28, s. 7.⁽⁵⁾

Previous trial by civil courts.

8. (1) Where under sections 6 and 7 a civil court or a service court of a visiting force has the primary right to exercise jurisdiction, the court having such primary right has the right to deal with charges against alleged offenders in the first instance, but such right may be waived in accordance with regulations.

Trial by court having primary right.

(2) A certificate of the service authorities of an associated state stating that anything alleged to have been done or omitted by a member of a visiting force of that state was or was not done or omitted in the performance of official duty, is receivable in evidence in any civil court and for the purposes of this Part is *prima facie* evidence of that fact. 1951 (2nd Sess.), c. 28, s. 8.

Certificate.

9. The members of a service court of a visiting force, exercising jurisdiction by virtue of this Act, and witnesses appearing before such a service court, have the like immunities and privileges as a service tribunal exercising jurisdiction under the *National Defence Act* and witnesses appearing before any such service tribunal. 1951 (2nd Sess.), c. 28, s. 9.⁽⁶⁾

Witnesses.

(5) This section confers on a visiting force limited jurisdiction in respect of all offences against the law of the associated state to which the visiting force belongs. It would, however, restrict the primary right of jurisdiction of a visiting force to cases in which its internal administration and discipline are directly affected. This section gives effect to subparagraph (a) of paragraph 1, sub-paragraph (a)(i)(ii) of paragraph 3 and paragraph 8 of Article VII of the Agreement.

(6) This section places members of service courts of visiting forces and witnesses appearing before them in the same position as members of Canadian service tribunals and witnesses appearing before them. In substance, it is similar in principle to provisions contained in *The Visiting Forces (British Commonwealth) Act*, and in *The Visiting Forces (United States of America) Act*. Although not expressly required by the Agreement, this section is necessary in order that visiting forces may conduct service courts in Canada.

Sentences.

10. (1) Where any sentence has been passed by a service court within or without Canada upon a member of the navy, army or air force of an associated state, for the purposes of any legal proceedings within Canada

- (a) the service court shall be deemed to have been properly constituted;
- (b) its proceedings shall be deemed to have been regularly conducted;
- (c) the sentence shall be deemed to have been within the jurisdiction of the service court and in accordance with the law of the associated state; and
- (d) if the sentence has been executed according to the tenor thereof, it shall be deemed to have been lawfully executed.

Detention.

(2) Any member of a visiting force who is detained in custody

- (a) in pursuance of a sentence mentioned in subsection (1); or
- (b) pending the determination by a service court of a charge brought against him,

shall, for the purposes of any legal proceedings within Canada, be deemed to be in lawful custody.

Certificate.

(3) For the purposes of any legal proceedings within Canada, a certificate under the hand of the officer in command of a visiting force stating that the persons specified in the certificate sat as a service court, is receivable in evidence and is conclusive evidence of that fact, and a certificate under the hand of such an officer stating that a member of that force is being detained in either of the circumstances described in subsection (2), is receivable in evidence and is conclusive evidence of the cause of his detention, but not of his being a member of the visiting force. 1951 (2nd Sess.), c. 28, s. 10.⁽⁷⁾

Arrest.

11. For the purpose of enabling the service authorities and service courts of a visiting force to exercise more effectively the powers conferred upon them by this Act, the Minister of National Defence, if so requested by the officer in command of the visiting force or by the associated state, may from time to time by general or special orders to the Canadian Forces, or any part thereof, direct the officers and men thereof to arrest members of the visiting force alleged to have been guilty of offences against the law of the associated state and to hand over any person so arrested to the appropriate authorities of the visiting force. 1951 (2nd Sess.), c. 28, s. 11.

(7) This section validates the proceedings of service courts of a visiting force and is in substance similar in principle to provisions contained in *The Visiting Forces (British Commonwealth) Act*, and in *The Visiting Forces (United States of America) Act*. Although not expressly required by the Agreement, it is necessary in order that visiting forces may conduct service courts in Canada.

12. (1) Where a member of the navy, army or air force of an associated state has been sentenced by a service court to undergo a punishment involving incarceration, the incarceration may, at the request of the officer in command of the visiting force of that associated state and in accordance with the regulations, be served wholly or partly in a penitentiary, civil prison, service prison or detention barrack, and the provisions of the *National Defence Act* respecting the carrying out of punishments of incarceration imposed upon officers and men of the Canadian Forces *mutatis mutandis* apply.

Place of incarceration.

(2) The Minister of National Defence shall, in accordance with the regulations, and having regard to the nature of the place of incarceration to which the offender would have been committed under the law of the associated state, determine whether the offender's punishment is to be served in whole or in part in a penitentiary, civil prison, service prison or detention barrack. 1951 (2nd Sess.), c. 28, s. 12.⁽⁸⁾

Idem.

13. The authority of members of a visiting force to exercise police functions, including the power of arrest, shall be as prescribed in the regulations, but no such regulation shall empower a member of a visiting force to exercise police functions in respect of any person who is not a member of the visiting force. 1951 (2nd Sess.), c. 28, s. 13.⁽⁹⁾

Police functions.

14. (1) Subject to such limitations as may be prescribed in the regulations, subsections (2), (3) and (4) of section 200 of the *National Defence Act* apply in relation to courts martial of a visiting force, except that a person required to give evidence before a court martial of a visiting force may be summoned only by a magistrate or justice of the peace whose authority in that respect shall be exercised in accordance with the regulations.

Application of provisions of *National Defence Act*.

(2) Section 244 of the *National Defence Act* applies to any person duly summoned under subsection (1) as though the court martial before which he is summoned to appear were a court martial within the Canadian Forces. 1951 (2nd Sess.), c. 28, s. 14.⁽¹⁰⁾

Idem.

(8) Sections 11 and 12 are similar in principle to provisions contained in *The Visiting Forces (British Commonwealth) Act*, and in *The Visiting Forces (United States of America) Act*.

(9) This section confers limited powers of arrest upon members of a visiting force. Such powers would be exercisable only in respect of members of that force. It gives effect to sub-paragraphs (a) and (b) of paragraph 10 of Article VII of the Agreement.

(10) This section makes it possible for visiting forces to be placed in the same position as the Canadian Forces in respect of the summoning of witnesses to appear before service tribunals except that the authorities of visiting forces in Canada are not able to issue summonses to witnesses, but in all cases have to apply to a Canadian judicial authority. This section gives effect to sub-paragraph (a) of paragraph 6 of Article VII of the Agreement.

Possession
of
explosives,
etc.

15. Members of a visiting force acting in the course of their duties, except civilian personnel,

- (a) may, if authorized to do so by orders of service authorities of the visiting force, possess and carry explosives, ammunition and firearms; and
- (b) are not subject to the provisions of the *Criminal Code* relating to unlawful drilling or the making or possessing of explosives. 1951 (2nd Sess.), c. 28, s. 15.⁽¹¹⁾

PART III

CLAIMS FOR PERSONAL INJURIES AND PROPERTY DAMAGE

Claims
against
associated
states.
Rep. & new,
1953-54,
c. 13, s. 17.

16. For the purposes of subsection (1) of section 3 of the *Crown Liability Act*

- (a) a tort committed by a member of a visiting force while acting within the scope of his duties or employment shall be deemed to have been committed by a servant of the Crown while acting within the scope of his duties or employment;
- (b) property owned, occupied, possessed or controlled by a visiting force shall be deemed to be owned, occupied, possessed or controlled by the Crown; and
- (c) a service motor vehicle of a visiting force shall be deemed to be owned by the Crown. 1953-54, c. 13, s. 17.

Enforce-
ment of
judgment
against
member of
visiting
force.

17. A member of a visiting force is not subject to any proceedings for the enforcement of any judgment given against him in Canada in respect of a matter that arose while he was acting within the scope of his duties or employment. 1951 (2nd Sess.), c. 28, s. 17.

Ships.

18. Section 16 does not apply to a claim arising out of or in connection with the navigation or operation of a ship or the loading, carriage or discharge of a cargo, unless the claim is for death or injury to the person. 1951 (2nd Sess.), c. 28, s. 18.

Official
duty.

19. Where a question arises under section 16, 17 or 18 as to whether

- (a) a member of a visiting force was acting within the scope of his duties or employment; or
- (b) a matter in respect of which judgment was given against a member of a visiting force arose while he was acting within the scope of his duties or employment,

(11) This section permits members of a visiting force to carry and possess arms, explosives and ammunition while acting in the course of duty and exempts them from the provisions of the *Criminal Code* respecting unlawful drilling and possession of explosives. Civilian personnel in the employ of a visiting force in Canada are excluded. It gives effect to Article VI of the Agreement.

the question shall be submitted to an arbitrator appointed in accordance with subparagraph (b) of paragraph 2 of Article VIII of the Agreement, and for the purposes of those sections the decision of the arbitrator is final and conclusive. 1951 (2nd Sess.), c. 28, s. 19.

PART IV

SECURITY PROVISIONS

20. Subject to section 21, the *Official Secrets Act* applies and shall be construed as applying in respect of an associated state as though

*Official
Secrets Act*
applicable.

- (a) a reference in that Act to “office under Her Majesty” included any office or employment in or under any department or branch of the government of an associated state;
- (b) a reference in that Act to “prohibited place” included
 - (i) any work of defence belonging to or occupied or used by or on behalf of an associated state including arsenals, naval, army or air force establishments or stations, factories, dockyards, mines, minefields, camps, ships, aircraft, telegraph, telephone, wireless or signal stations or offices, and places, other than diplomatic premises of associated states, used for the purpose of building, repairing, making or storing any munitions of war or any sketches, plans, models, or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war; and
 - (ii) any place, not belonging to an associated state, where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of an associated state, or otherwise on behalf of an associated state;
- (c) a reference in that Act to “safety or interests of the state” or to “interest of the state” or to “public interest” included the safety and security interests of an associated state;
- (d) a reference in that Act to “contract made on behalf of Her Majesty” included a contract made on behalf of an associated state;
- (e) the expression “appointed by or acting under the authority of Her Majesty” in that Act included the expression “appointed by or acting under the authority of the government of an associated state”; and

- (f) a reference in that Act to “any member of Her Majesty’s forces” included a member of the visiting forces of an associated state.⁽¹²⁾

Exception.

21. Section 13 of the *Official Secrets Act* does not apply in respect of an associated state. 1951 (2nd Sess.), c. 28, s. 21.⁽¹³⁾

PART V

TAXATION

Residence
or domicile.

22. (1) Where the liability for any form of taxation in Canada depends upon residence or domicile, a period during which a member of a visiting force is in Canada by reason of his being a member of such visiting force shall, for the purpose of such taxation, be deemed not to be a period of residence in Canada and not to create a change of residence or domicile.

Salaries.

(2) A member of a visiting force is exempt from taxation in Canada on the salary and emoluments paid to him as such member by an associated state and in respect of any tangible movable property that is in Canada temporarily by reason of his presence in Canada as such member.

Resident
Canadian
citizens
excepted.

(3) For the purposes of this section, the term “member of a visiting force” does not include a Canadian citizen resident or ordinarily resident in Canada. 1951 (2nd Sess.), c. 28, s. 22.⁽¹⁴⁾

Service
vehicles.

23. No tax or fee is payable in respect of the licensing or registration of service vehicles of a visiting force or in respect of the use of such vehicles on any road in Canada. 1951 (2nd Sess.), c. 28, s. 23.⁽¹⁵⁾

(12) This section gives to associated states the same protection in respect of security matters, subject to the exception mentioned in clause 21, as is provided for security interests of Canada under the *Official Secrets Act*. The section gives effect to paragraph 11, of Article VII of the Agreement.

(13) Section 13 of the *Official Secrets Act* relates to offences against security committed outside of Canada and therefore should not be made applicable to associated states under this Act which deals solely with the rights of such states in Canada.

(14) This section exempts from Canadian taxation the service emoluments received by members of visiting forces and the personal property that they bring into Canada temporarily. No exemption is provided for Canadian citizens who are resident or ordinarily resident in Canada despite the fact that they become members of visiting forces. This section gives effect to Article X of the Agreement.

(15) This section places a visiting force in the same position as the Canadian Forces in respect of the operation of service vehicles on roads in Canada. It gives effect to sub-paragraph (c) of paragraph 2 of Article XI of the Agreement.

24. (1) Subject to the regulations, a visiting force may import into Canada, free of duty and tax, equipment for the visiting force and such quantities of provisions, supplies and other goods for the exclusive use of the visiting force as in the opinion of the Minister of National Revenue are reasonable. Imports.

(2) The Minister of National Revenue may authorize the import into Canada, free of duty and tax, of goods for use by dependants of members of a visiting force. 1951 (2nd Sess.), c. 28, s. 24. Idem.

25. A member of a visiting force may, in accordance with the regulations, Personal effects and motor vehicles.

(a) at the time of his first arrival to take up service in Canada and at the time of the first arrival of any dependant to join him, import his personal effects and furniture free of duty and tax; and

(b) import, free of duty and tax, his private motor vehicle for the personal use of himself and his dependants temporarily, but this paragraph shall not be construed as granting or authorizing the granting of any exemption from taxes or fees in respect of the licensing or the registration of private vehicles or the use of the roads by private vehicles in Canada. 1951 (2nd Sess.), c. 28, s. 25.

26. Subject to compliance with such conditions as are prescribed by the regulations, no duty or tax is payable on any fuel, oil or lubricants intended for use exclusively in the service vehicles, aircraft or vessels of a visiting force. 1951 (2nd Sess.), c. 28, s. 26. Fuel, oil, etc.

PART VI

GENERAL

27. The Governor in Council may make regulations, not inconsistent with the provisions of this Act, Regulations.

(a) for carrying out the Agreement and giving effect to its provisions; and

(b) for carrying out the purposes and provisions of this Act. 1951 (2nd Sess.), c. 28, s. 27.

28. This Act or any portion thereof shall come into force on a day or days to be fixed by proclamation of the Governor in Council. 1951 (2nd Sess.), c. 28, s. 28. Coming into force.

SCHEDULE

AGREEMENT BETWEEN THE PARTIES TO THE NORTH
ATLANTIC TREATY REGARDING THE STATUS
OF THEIR FORCES

The Parties to the North Atlantic Treaty signed in Washington on the 4th April, 1949,

Considering that the forces of one Party may be sent, by arrangement, to serve in the territory of another Party;

Bearing in mind that the decision to send them and the conditions under which they will be sent, in so far as such conditions are not laid down by the present Agreement, will continue to be the subject of separate arrangements between the Parties concerned;

Desiring, however, to define the status of such forces while in the territory of another Party;

Have agreed as follows:

ARTICLE I

1. In this Agreement the expression—

- (a) “force” means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connexion with their official duties, provided that the two Contracting Parties concerned may agree that certain individuals, units or formations, shall not be regarded as constituting or included in a “force” for the purposes of the present Agreement;
- (b) “civilian component” means the civilian personnel accompanying a force of a Contracting Party who are in the employ of an armed service of that Contracting Party, and who are not stateless persons, nor nationals of any State which is not a Party to the North Atlantic Treaty, nor nationals of, nor ordinarily resident in, the State in which the force is located;
- (c) “dependent” means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;
- (d) “sending State” means the Contracting Party to which the force belongs;
- (e) “receiving State” means the Contracting Party in the territory of which the force or civilian component is located, whether it be stationed there or passing in transit;
- (f) “military authorities of the sending State” means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components;
- (g) “North Atlantic Council” means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorized to act on its behalf.

2. This Agreement shall apply to the authorities of political subdivisions of the Contracting Parties, within their territories to which the Agreement applies or extends in accordance with Article XX, as it applies to the central authorities of those Contracting Parties, provided, however, that property owned by political sub-divisions shall not be considered to be property owned by a Contracting Party within the meaning of Article VIII.

ARTICLE II

It is the duty of a force and its civilian component and the members thereof as well as their dependents to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity in the receiving State. It is also the duty of the sending State to take necessary measures to that end.

ARTICLE III

1. On the conditions specified in paragraph 2 of this Article and subject to compliance with the formalities established by the receiving State relating to entry and departure of a force or the members thereof, such members shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of a receiving State. They shall also be exempt from the regulations of the receiving State on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a force. They must be presented on demand:

- (a) Personal identity card issued by the sending State showing names, date of birth, rank and number (if any), service, and photograph;
- (b) Individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate agency of the sending State or of the North Atlantic Treaty Organisation and certifying to the status of the individual or group as a member or members of a force and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative.

3. Members of a civilian component and dependents shall be so described in their passports.

4. If a member of a force or of a civilian component leaves the employ of the sending State and is not repatriated, the authorities of the sending State shall immediately inform the authorities of the receiving State, giving such particulars as may be required. The authorities of the sending State shall similarly inform the authorities of the receiving State of any member who has absented himself for more than 21 days.

5. If the receiving State has requested the removal from its territory of a member of a force or civilian component or has made an expulsion order against an ex-member of a force or of a civilian component or against a dependent of a member or ex-member, the authorities of the sending State shall be responsible for receiving the person concerned within their own territory or otherwise disposing of him outside the receiving State. This paragraph shall apply only to persons who are not nationals of the receiving State and have entered the receiving State as members of a force or civilian component or for the purpose of becoming such members, and to the dependents of such persons.

ARTICLE IV

The receiving State shall either

- (a) accept as valid, without a driving test or fee, the driving permit or licence or military driving permit issued by the sending State or a sub-division thereof to a member of a force or of a civilian component; or

- (b) issue its own driving permit or licence to any member of a force or civilian component who holds a driving permit or licence or military driving permit issued by the sending State or a sub-division thereof, provided that no driving test shall be required.

ARTICLE V

1. Members of a force shall normally wear uniform. Subject to any arrangement to the contrary between the authorities of the sending and receiving States, the wearing of civilian dress shall be on the same conditions as for members of the forces of the receiving State. Regularly constituted units or formations of a force shall be in uniform when crossing a frontier.

2. Service vehicles of a force or civilian component shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE VI

Members of a force may possess and carry arms, on condition that they are authorised to do so by their orders. The authorities of the sending State shall give sympathetic consideration to requests from the receiving State concerning this matter.

ARTICLE VII

1. Subject to the provisions of this Article,
 - (a) the military authorities of the sending State shall have the right to exercise within the receiving State all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;
 - (b) the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component and their dependents with respect to offences committed within the territory of the receiving State and punishable by the law of that State.
2. (a) The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences, including offences relating to its security, punishable by the law of the sending State, but not by the law of the receiving State.
- (b) The authorities of the receiving State shall have the right to exercise exclusive jurisdiction over members of a force or civilian component and their dependents with respect to offences, including offences relating to the security of that State, punishable by its law but not by the law of the sending State.
- (c) For the purposes of this paragraph and of paragraph 3 of this Article, a security offence against a State shall include
 - (i) treason against the State;
 - (ii) sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defence of that State.
3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:
 - (a) The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of a force or of a civilian component in relation to
 - (i) offences solely against the property or security of that State, or offences solely against the person or property of another member of the force or civilian component of that State or of a dependent;

(ii) offences arising out of any act or omission done in the performance of official duty.

(b) In the case of any other offence the authorities of the receiving state shall have the primary right to exercise jurisdiction.

(c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. The foregoing provisions of this Article shall not imply any right for the military authorities of the sending State to exercise jurisdiction over persons who are nationals of or ordinarily resident in the receiving State, unless they are members of the force of the sending State.

5. (a) The authorities of the receiving and sending States shall assist each other in the arrest of members of a force or civilian component or their dependents in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of the receiving State shall notify promptly the military authorities of the sending State of the arrest of any member of a force or civilian component or a dependent.

(c) The custody of an accused member of a force or civilian component over whom the receiving State is to exercise jurisdiction shall, if he is in the hands of the sending State, remain with that State until he is charged by the receiving State.

6. (a) The authorities of the receiving and sending States shall assist each other in the carrying out of all necessary investigations into offences, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offence. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

(b) The authorities of the Contracting Parties shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

7. (a) A death sentence shall not be carried out in the receiving State by the authorities of the sending State if the legislation of the receiving State does not provide for such punishment in a similar case.

(b) The authorities of the receiving State shall give sympathetic consideration to a request from the authorities of the sending State for assistance in carrying out a sentence of imprisonment pronounced by the authorities of the sending State under the provision of this Article within the territory of the receiving State.

8. Where an accused has been tried in accordance with the provisions of this Article by the authorities of one Contracting Party and has been acquitted, or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offence within the same territory by the authorities of another Contracting Party. However, nothing in this paragraph shall prevent the military authorities of the sending State from trying a member

of its force for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the authorities of another Contracting Party.

9. Whenever a member of a force or civilian component or a dependent is prosecuted under the jurisdiction of a receiving State he shall be entitled

- (a) to a prompt and speedy trial;
- (b) to be informed, in advance of trial, of the specific charge or charges made against him;
- (c) to be confronted with the witnesses against him;
- (d) to have compulsory process for obtaining witnesses in his favour, if they are within the jurisdiction of the receiving State;
- (e) to have legal representation of his own choice for his defence or to have free or assisted legal representation under the conditions prevailing for the time being in the receiving State;
- (f) if he considers it necessary, to have the services of a competent interpreter; and
- (g) to communicate with a representative of the Government of the sending State and, when the rules of the court permit, to have such a representative present at his trial.

10. (a) Regularly constituted military units or formations of a force shall have the right to police any camps, establishments or other premises which they occupy as the result of an agreement with the receiving State. The military police of the force may take all appropriate measures to ensure the maintenance of order and security on such premises.

(b) Outside these premises, such military police shall be employed only subject to arrangements with the authorities of the receiving State and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of the force.

11. Each Contracting Party shall seek such legislation as it deems necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene laws enacted for that purpose.

ARTICLE VIII

1. Each Contracting Party waives all its claims against any other Contracting Party for damage to any property owned by it and used by its land, sea or air armed services, if such damage

- (i) was caused by a member or an employee of the armed services of the other Contracting Party in the execution of his duties in connexion with the operation of the North Atlantic Treaty; or
- (ii) arose from the use of any vehicle, vessel or aircraft owned by the other Contracting Party and used by its armed services, provided either that the vehicle, vessel or aircraft causing the damage was being used in connexion with the operation of the North Atlantic Treaty, or that the damage was caused to property being so used.

Claims for maritime salvage by one Contracting Party against any other Contracting Party shall be waived, provided that the vessel or cargo salvaged was owned by a Contracting Party and being used by its armed services in connexion with the operation of the North Atlantic Treaty.

2. (a) In the case of damage caused or arising as stated in paragraph 1 to other property owned by a Contracting Party and located in its territory, the issue of the liability of any other Contracting Party shall be determined and the amount of damage shall be assessed, unless the Contracting Parties concerned agree otherwise, by a sole arbitrator selected in accordance with sub-paragraph (b) of this paragraph. The arbitrator shall also decide any counter-claims arising out of the same incident.
- (b) The arbitrator referred to in sub-paragraph (a) above shall be selected by agreement between the Contracting Parties concerned from amongst the nationals of the receiving State who hold or have held high judicial office. If the Contracting Parties concerned are unable, within two months, to agree upon the arbitrator, either may request the Chairman of the North Atlantic Council Deputies to select a person with the aforesaid qualifications.
- (c) Any decision taken by the arbitrator shall be binding and conclusive upon the Contracting Parties.
- (d) The amount of any compensation awarded by the arbitrator shall be distributed in accordance with the provisions of paragraph 5(e)(i), (ii) and (iii) of this Article.
- (e) The compensation of the arbitrator shall be fixed by agreement between the Contracting Parties concerned and shall, together with the necessary expenses incidental to the performance of his duties, be defrayed in equal proportions by them.
- (f) Nevertheless, each Contracting Party waives its claim in any such case where the damage is less than:

Belgium	B.fr. 70,000
Canada	\$ 1,460
Denmark	Kr. 9,670
France	F.fr. 490,000
Iceland	Kr. 22,800
Italy	Li. 850,000
Luxembourg	L.fr. 70,000
Netherlands	Fl. 5,320
Norway	Kr. 10,000
Portugal	Es. 40,250
United Kingdom	£ 500
United States	\$ 1,400

Any other Contracting Party whose property has been damaged in the same incident shall also waive its claim up to the above amount. In the case of considerable variation in the rates of exchange between these currencies the Contracting Parties shall agree on the appropriate adjustments of these amounts.

3. For the purposes of paragraphs 1 and 2 of this Article the expression "owned by a Contracting Party" in the case of a vessel includes a vessel on bare boat charter to that Contracting Party or requisitioned by it on bare boat terms or seized by it in prize (except to the extent that the risk of loss or liability is borne by some person other than such Contracting Party).

4. Each Contracting Party waives all its claims against any other Contracting Party for injury or death suffered by any member of its armed services while such member was engaged in the performance of his official duties.

5. Claims (other than contractual claims and those to which paragraphs 6 or 7 of this Article apply) arising out of acts or omissions of members of a force or civilian component done in the performance of official duty, or out of any other act, omission or occurrence for which a force or civilian component is legally responsible, and causing damage in the territory of the receiving State to third parties, other than any of the Contracting Parties, shall be dealt with by the receiving State in accordance with the following provisions:

- (a) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of the receiving State with respect to claims arising from the activities of its own armed forces.
- (b) The receiving State may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by the receiving State in its currency.
- (c) Such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of the receiving State, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive upon the Contracting Parties.
- (d) Every claim paid by the receiving State shall be communicated to the sending States concerned together with full particulars and a proposed distribution in conformity with sub-paragraphs (e)(i), (ii) and (iii) below. In default of a reply within two months, the proposed distribution shall be regarded as accepted.
- (e) The cost incurred in satisfying claims pursuant to the preceding sub-paragraphs and paragraph 2 of this Article shall be distributed between the Contracting Parties, as follows:
 - (i) Where one sending State alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25 per cent chargeable to the receiving State and 75 per cent chargeable to the sending State.
 - (ii) Where more than one State is responsible for the damage, the amount awarded or adjudged shall be distributed equally among them: however, if the receiving State is not one of the States responsible, its contribution shall be half that of each of the sending States.
 - (iii) Where the damage was caused by the armed services of the Contracting Parties and it is not possible to attribute it specifically to one or more of those armed services, the amount awarded or adjudged shall be distributed equally among the Contracting Parties concerned: however, if the receiving State is not one of the States by whose armed services the damage was caused, its contribution shall be half that of each of the sending States concerned.
 - (iv) Every half-year, a statement of the sums paid by the receiving State in the course of the half-yearly period in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent to the sending States concerned, together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time, in the currency of the receiving State.
- (f) In cases where the application of the provisions of sub-paragraphs (b) and (e) of this paragraph would cause a Contracting Party serious hardship, it may request the North Atlantic Council to arrange a settlement of a different nature.

- (g) A member of a force or civilian component shall not be subject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties.
- (h) Except in so far as sub-paragraph (e) of this paragraph applies to claims covered by paragraph 2 of this Article, the provisions of this paragraph shall not apply to any claim arising out of or in connection with the navigation or operation of a ship or the loading, carriage, or discharge of a cargo, other than claims for death or personal injury to which paragraph 4 of this Article does not apply.

6. Claims against members of a force or civilian component arising out of tortious acts or omissions in the receiving State not done in the performance of official duty shall be dealt with in the following manner:

- (a) The authorities of the receiving State shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter.
- (b) The report shall be delivered to the authorities of the sending State, who shall then decide without delay whether they will offer an *ex gratia* payment, and if so, of what amount.
- (c) If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State shall make the payment themselves and inform the authorities of the receiving State of their decision and of the sum paid.
- (d) Nothing in this paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of a force or of a civilian component unless and until there has been payment in full satisfaction of the claim.

7. Claims arising out of the unauthorized use of any vehicle of the armed services of a sending State shall be dealt with in accordance with paragraph 6 of this Article, except in so far as the force or civilian component is legally responsible.

8. If a dispute arises as to whether a tortious act or omission of a member of a force or civilian component was done in the performance of official duty or as to whether the use of any vehicle of the armed services of a sending State was unauthorized, the question shall be submitted to an arbitrator appointed in accordance with paragraph 2 (b) of this Article, whose decision on this point shall be final and conclusive.

9. The sending State shall not claim immunity from the jurisdiction of the courts of the receiving State for members of a force or civilian component in respect of the civil jurisdiction of the courts of the receiving State except to the extent provided in paragraph 5 (g) of this Article.

10. The authorities of the sending State and of the receiving State shall co-operate in the procurement of evidence for a fair hearing and disposal of claims in regard to which the Contracting Parties are concerned.

ARTICLE IX

1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption, and such services as they need, under the same conditions as the nationals of the receiving State.

2. Goods which are required from local sources for the subsistence of a force or civilian component shall normally be purchased through the authorities which purchase such goods for the armed services of the

receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of that State shall indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. Subject to agreements already in force or which may hereafter be made between the authorized representatives of the sending and receiving States, the authorities of the receiving State shall assume sole responsibility for making suitable arrangements to make available to a force or a civilian component the buildings and grounds which it requires, as well as facilities and services connected therewith. These agreements and arrangements shall be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract to the contrary, the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds, facilities or services.

4. Local civilian labour requirements of a force or civilian component shall be satisfied in the same way as the comparable requirements of the receiving State and with the assistance of the authorities of the receiving State through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers, shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force or civilian component.

5. When a force or a civilian component has at the place where it is stationed inadequate medical or dental facilities, its members and their dependents may receive medical and dental care, including hospitalization, under the same conditions as comparable personnel of the receiving State.

6. The receiving State shall give the most favourable consideration to requests for the grant to members of a force or of a civilian component of travelling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Contracting Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and, if necessary, 5 and 6, of this Article shall be made promptly by the authorities of the force.

8. Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X

1. Where the legal incidence of any form of taxation in the receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence therein, or as creating a change of residence or domicile, for the purposes of such taxation. Members of a force or civilian component shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any tangible movable property the presence of which in the receiving State is due solely to their temporary presence there.

2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise, other than his employment as such member, in which he may engage in the receiving State, and, except as regards his salary and emoluments and the tangible movable property referred to in paragraph 1, nothing in this Article shall prevent taxation to which, even if regarded as having his residence or domicile outside the territory of the receiving State, such a member is liable under the law of that State.

3. Nothing in this Article shall apply to "duty" as defined in paragraph 12 of Article XI.

4. For the purposes of this Article the term "member of a force" shall not include any person who is a national of the receiving State.

ARTICLE XI

1. Save as provided expressly to the contrary in this Agreement, members of a force and of a civilian component as well as their dependents shall be subject to the laws and regulations administered by the customs authorities of the receiving State. In particular the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles, and to seize articles pursuant to such laws and regulations.

2. (a) The temporary importation and the re-exportation of service vehicles of a force or civilian component under their own power shall be authorized free of duty on presentation of a triptyque in the form shown in the Appendix to this Agreement.
- (b) The temporary importation of such vehicles not under their own power shall be governed by paragraph 4 of this Article and the re-exportation thereof by paragraph 8.
- (c) Service vehicles of a force or civilian component shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal shall not be subject to customs inspection. Couriers, whatever their status, carrying these documents must be in possession of an individual movement order, issued in accordance with paragraph 2(b) of Article III. This movement order shall show the number of despatches carried and certify that they contain only official documents.

4. A force may import free of duty the equipment for the force and reasonable quantities of provisions, supplies and other goods for the exclusive use of the force and, in cases where such use is permitted by the receiving State, its civilian component and dependents. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with such customs documents as shall be agreed, of a certificate in a form agreed between the receiving State and the sending State signed by a person authorized by the sending State for that purpose. The designation of the person authorized to sign the certificates as well as specimens of the signatures and stamps to be used, shall be sent to the customs administration of the receiving State.

5. A member of a force or civilian component may, at the time of his first arrival to take up service in the receiving State or at the time of the first arrival of any dependent to join him, import his personal effects and furniture free of duty for the term of such service.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraphs 2(b), 4, 5 or 6 above—

(a) may be re-exported freely, provided that, in the case of goods imported under paragraph 4, a certificate, issued in accordance with that paragraph, is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraphs 2(b), 4, 5 or 6 as the case may be;

(b) shall not normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorized on conditions imposed by the authorities concerned of the receiving State (for instance, on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

9. Goods purchased in the receiving State shall be exported therefrom only in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component, may be delivered free of all duties and taxes.

12. In paragraphs 1-10 of this Article—

“duty” means customs duties and all other duties and taxes payable on importation or exportation, as the case may be, except dues and taxes which are no more than charges for services rendered;

“importation” includes withdrawal from customs warehouses or continuous customs custody, provided that the goods concerned have not been grown, produced or manufactured in the receiving State.

13. The provisions of this Article shall apply to the goods concerned not only when they are imported into or exported from the receiving State, but also when they are in transit through the territory of a Contracting Party, and for this purpose the expression “receiving State” in this Article shall be regarded as including any Contracting Party through whose territory the goods are passing in transit.

ARTICLE XII

1. The customs or fiscal authorities of the receiving State may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XIII

1. In order to prevent offences against customs and fiscal laws and regulations, the authorities of the receiving and of the sending States shall assist each other in the conduct of enquiries and the collection of evidence.

2. The authorities of a force shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force shall render all assistance within their power to ensure the payment of duties, taxes and penalties payable by members of the force or civilian component or their dependents.

4. Service vehicles and articles belonging to a force or to its civilian component, and not to a member of such force or civilian component, seized by the authorities of the receiving State in connection with an offence against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the force concerned.

ARTICLE XIV

1. A force, a civilian component and the members thereof, as well as their dependents, shall remain subject to the foreign exchange regulations of the sending State and shall also be subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a force or civilian component or the members thereof as well as to their dependents.

ARTICLE XV

1. Subject to paragraph 2 of this Article, this Agreement shall remain in force in the event of hostilities to which the North Atlantic Treaty applies, except that the provisions for setting claims in paragraphs 2 and 5 of Article VIII shall not apply to war damage, and that the provisions of the Agreement, and, in particular of Articles III and VII, shall immediately be reviewed by the Contracting Parties concerned, who may agree to such modifications as they may consider desirable regarding the application of the Agreement between them.

2. In the event of such hostilities, each of the Contracting Parties shall have the right, by giving 60 days' notice to the other Contracting Parties, to suspend the application of any of the provisions of this Agreement so far as it is concerned. If this right is exercised, the Contracting Parties shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE XVI

All differences between the Contracting Parties relating to the interpretation or application of this Agreement shall be settled by negotiation between them without recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE XVII

Any Contracting Party may at any time request the revision of any Article of this Agreement. The request shall be addressed to the North Atlantic Council.

ARTICLE XVIII

1. The present Agreement shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which shall notify each signatory State of the date of deposit thereof.

2. Thirty days after four signatory States have deposited their instruments of ratification the present Agreement shall come into force between them. It shall come into force for each other signatory State thirty days after the deposit of its instrument of ratification.

3. After it has come into force, the present Agreement shall, subject to the approval of the North Atlantic Council and to such conditions as it may decide, be open to accession on behalf of any State which accedes to the North Atlantic Treaty. Accession shall be effected by the deposit of an instrument of accession with the Government of the United States of America, which shall notify each signatory and acceding State of the date of deposit thereof. In respect of any State on behalf of which an instrument of accession is deposited, the present Agreement shall come into force thirty days after the date of the deposit of such instrument.

ARTICLE XIX

1. The present Agreement may be denounced by any Contracting Party after the expiration of a period of four years from the date on which the Agreement comes into force.

2. The denunciation of the Agreement by any Contracting Party shall be effected by a written notification addressed by that Contracting Party to the Government of the United States of America which shall notify all the other Contracting Parties of each such notification and the date of receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America. After the expiration of this period of one year, the Agreement shall cease to be in force as regards the Contracting Party which denounces it, but shall continue in force for the remaining Contracting Parties.

ARTICLE XX

1. Subject to the provisions of paragraphs 2 and 3 of this Article, the present Agreement shall apply only to the metropolitan territory of a Contracting Party.

2. Any State may, however, at the time of the deposit of its instrument of ratification or accession or at any time thereafter, declare by notification given to the Government of the United States of America that the present Agreement shall extend (subject, if the State making the declaration considers it to be necessary, to the conclusion of a special agreement between that State and each of the sending States concerned), to all or any of the territories for whose international relations it is responsible in the North Atlantic Treaty area. The present Agreement shall then extend to the territory or territories named therein thirty days after the receipt by the Government of the United States of America of the notification, or thirty days after the conclusion of the special agreements if required, or when it has come into force under Article XVIII, whichever is the later.

3. A State which has made a declaration under paragraph 2 of this Article extending the present Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory in accordance with the provisions of Article XIX.

In witness whereof the undersigned Plenipotentiaries have signed the present Agreement.

Done in London this nineteenth day of June, 1951, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

For the Kingdom of Belgium:

OBERT DE THIEUSIES.

For Canada:

L. D. WILGRESS.

For the Kingdom of Denmark:

STEENSEN-LETH.

For France:

HERVÉ ALPHAND.

For Iceland:

GUNNLAUGER PÉTURSSON.

For Italy:

A. ROSSI-LONGHI.

For the Grand Duchy of Luxembourg:

A. CLASEN.

For the Kingdom of the Netherlands:

A. W. L. TJARDA VAN STARKENBORGH-STACHOUWER.

For the Kingdom of Norway:

DAG BRYN.

For Portugal:

R. ENNES ULRICH.

The Agreement is only applicable to the territory of Continental Portugal, with the exclusion of the Adjacent Islands and the Overseas Provinces.

For the United Kingdom of Great Britain and Northern Ireland:

HERBERT MORRISON.

For the United States of America:

CHARLES M. SPOFFORD.

APPENDIX

Country Ministry or Service

TRIPTYQUE*

Valid from To

for temporary importation to
of the following service vehicle:

Type

Registration Number Engine Number

Spare tyres

Fixed Communication Equipment

Name and signature of the holder of the triptyque

.....

Date of issue By order of

.....

TEMPORARY EXITS AND ENTRIES

<i>Name of Port or Customs Station</i>	<i>Date</i>	<i>Signature and Stamp of Customs Office</i>
Exit		
Entry		
Exit		
Entry		
Exit		
Entry		
Exit		
Entry		

*This document shall be in the language of the sending State and in the English and French languages.

NATIONAL CENTENNIAL ACT

9-10 ELIZABETH II, CHAPTER 60

An Act respecting the Observance of the Centennial of Confederation in Canada⁽¹⁾

[Assented to 29th September, 1961.]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. This Act may be cited as the *National Centennial Act*. Short title.

INTERPRETATION

2. In this Act, Definitions.

(a) "Administration" means the National Centennial Administration referred to in section 3; "Adminis-
tration."

(b) "Commissioner" means the Commissioner of the Administration; "Commis-
sioner."

(c) "Conference" means the National Conference on Canada's Centennial referred to in section 17; "Confer-
ence."

(d) "Deputy Commissioner" means the Deputy Commis-
sioner of the Administration; "Deputy
Commis-
sioner."

(1) In Committee of the Whole, on the Resolution preceding the introduction of this measure, the Prime Minister, the Right Honourable J. G. Diefenbaker delivered a speech of much interest to students of constitutional law. Here are some excerpts:

"On this occasion we will be celebrating the hundredth anniversary of our country. It should be a time of national stocktaking and of rededication to the future. It will represent a dramatic year in Canadian history and an opportunity for Canadians to develop a fuller understanding of what it means and can mean to be a Canadian. One of the aims of the centennial observance should be to make Canadians aware of their unique heritage and their birthright, and of the contributions to our development that have been made by the peoples of the founding races as well as the many other nationalities who have come to our country.

I think it is not generally known that Canada played a very large part in the history of religious freedom. Indeed, the United Kingdom parliament in 1775 granted religious freedom to what is now Canada long in advance of it being granted in the United Kingdom. Further in that connection, I might mention that it was in Canada, some 25 years in advance of the same rights being attained in the United Kingdom, that those of the Jewish race received equality and the privilege of electing members of that faith to the House of Commons.

It is of interest to think of the beginnings of confederation, the arguments that were advanced by Sir John Macdonald and those associated with him, and the stand taken by those opposed to confederation. Following this there were meetings in Quebec and in Charlottetown. I was in the archives the other day and I found there a most interesting document. This is a report of the resolutions adopted at the conference of delegates from the provinces of Canada.

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- “Director.” (e) “director” means a director of the Administration;
- “Fund.” (f) “Fund” means the National Centennial Fund established by this Act;
- “Member.” (g) “member” means a member of the Conference; and
- “Minister.” (h) “Minister” means the Prime Minister of Canada or such other member of the Queen’s Privy Council for Canada as is designated by the Governor in Council.

PART I

CONSTITUTION OF ADMINISTRATION

- National Centennial Administration. 3. There shall be a corporation to be called the National Centennial Administration consisting of a Commissioner, a Deputy Commissioner and not more than eight directors each of whom shall be appointed by the Governor in Council to hold office during pleasure.
- Commissioner chief officer. 4. (1) The Commissioner is the chief executive officer of the Administration.
- Deputy Commissioner to act. (2) If the Commissioner is absent or unable to act or the office is vacant, the Deputy Commissioner has and may exercise all the powers and functions of the Commissioner.
- Salaries. 5. (1) The Commissioner and Deputy Commissioner shall be paid a salary to be fixed by the Governor in Council.
- Remuneration and expenses of directors. (2) The directors shall serve without remuneration but are entitled to be paid reasonable travelling and living expenses while absent from their ordinary place of residence in the course of their duties.

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As may be seen through a reading of the document and also through a reading of the debates between 1860 and 1867, as was stated by Sir Wilfrid Laurier at the time of Sir John A. Macdonald’s death, the vision of Sir John A. Macdonald and his associates was underlined and emphasized. Indeed, it was the work of Sir John Macdonald and Etienne Cartier that made possible the transformation of colonial North America into the self governing country into which it has grown. Had it not been for their work there would never have been possible the development of the commonwealth concept of today.

There were few in the United Kingdom who believed that it would be possible to bring about confederation. It was Lafontaine who would not accept the views of Lord John Russell and other imperial leaders that self government being granted to the colonies would mean the breaking up of the ties with the United Kingdom. It was Lafontaine who foresaw that if representative self government was granted, the relations between the United Kingdom and the self governing possessions beyond the seas would be strengthened, not weakened. Macdonald and Cartier refused to accept the view of John Stuart Mill that parliamentary institutions could not live in a country that had two or more ethnic stocks.

Of all the countries of the commonwealth today—and this is something we sometimes forget—Canada was the first to attain responsible, representative and parliamentary government and the first, as I said a moment ago, to develop the federal system which in its essence made possible the uniting of areas representing various races, geographic separations and the like.

6. (1) The Commissioner, under the direction of the Minister and with the approval of the Governor in Council, may appoint such officers and employees and such consultants and advisers as he deems necessary for the purposes of this Part and may fix their remuneration and terms and conditions of employment. Staff.

(2) Every person who, immediately prior to his appointment by the Commissioner, was employed by virtue of the *Civil Service Act* continues, notwithstanding anything in this Act, to be employed by virtue of and to be subject to that Act. Idem.

7. (1) The Administration is, for all purposes of this Act, an agent of Her Majesty, and its powers under this Act may be exercised only as an agent of Her Majesty. Administration agent of Her Majesty.

(2) Subject to the approval of the Governor in Council, the Administration may, on behalf of Her Majesty, enter into contracts in the name of Her Majesty or in the name of the Administration. Contracts.

(3) Property acquired by the Administration is the property of Her Majesty and title thereto may be vested in the name of Her Majesty or in the name of the Administration. Property.

(4) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Administration on behalf of Her Majesty, whether in its name or in the name of Her Majesty, may be brought or taken by or against the Administration in the name of the Administration in any Court that would have jurisdiction if the Administration were not an agent of Her Majesty. Proceedings.

8. (1) The head office of the Administration shall be at the City of Ottawa. Head office.

(2) The Administration shall meet at least four times a year at such places as the Commissioner may designate. Meetings.

It was on February 19, 1865 that the attorney general of the west, namely John A. Macdonald, introduced the resolution which read as follows:

That an humble address be presented to Her Majesty, praying that she may be graciously pleased to cause a measure to be submitted to the imperial parliament for the purpose of uniting the colonies of Canada, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island into one government with provisions based on certain resolutions, which were adopted at a conference of delegates from the said colonies held at the city of Quebec, on the 10th October 1864.

.

I trust the committee will give unanimous support to this resolution and that in a spirit of unity all of us, whether in the federal parliament, in provincial legislatures or in the municipalities will join together and bring about an imaginative program so that we may relive our past and rededicate this land to its future, the hopes for which were spoken of so eloquently by those who were present at the birth of its institutions."

OBJECTS AND POWERS

Objects of
Adminis-
tration.

9. (1) The objects of the Administration are to promote interest in, and to plan and implement programmes and projects relating to, the Centennial of Confederation in Canada in order that the Centennial may be observed throughout Canada in a manner in keeping with its national and historical significance.

Powers.

(2) Subject to the approval of the Governor in Council, the Administration may, for the purposes of this Act,

- (a) acquire by purchase, lease or otherwise any real or personal property, including securities, and own, hold, sell, manage or deal therewith or therein as the Administration may determine;
- (b) expend any moneys appropriated by Parliament for the work of the Administration or received by the Administration through the conduct of its operations or by gift, donation, bequest or otherwise;
- (c) undertake programmes and projects relating to the observance of the Centennial of Confederation in Canada; and
- (d) engage in joint projects with, or make grants to, any province, or any organization the objects of which are similar to the objects of the Administration, for the observance of the Centennial of Confederation in Canada.

FINANCIAL

National
Centennial
Fund.

10. (1) There shall be a special account in the Consolidated Revenue Fund, to be known as the National Centennial Fund, to which shall be credited the amounts appropriated by Parliament for the purposes of the Fund.

Payments
out of
Consolidated
Revenue
Fund.

(2) Subject to subsection (3), the Minister of Finance may, on the recommendation of the Minister, out of the Consolidated Revenue Fund pay to the Administration such amounts as are from time to time required for the purpose of making grants to any province, or to any organization the objects of which are similar to the objects of the Administration, for the observance of the Centennial of Confederation in Canada.

Limit on
payments.

(3) The amounts paid by the Minister of Finance to the Administration under subsection (2) shall be charged to the Fund, but a payment out of the Consolidated Revenue Fund under subsection (2) shall not exceed the balance standing to the credit of the Fund.

Expendi-
tures.

11. All expenditures of the Administration, other than grants made by it pursuant to subsection (2) of section 10, shall be paid out of moneys appropriated by Parliament therefor.

BY-LAWS

12. The Administration may make by-laws for the conduct and management of its activities and for carrying out the provisions of this Act. By-laws.

GENERAL

13. The Administration may, if it sees fit, accept any property by way of gift, bequest or devise and may, notwithstanding anything in this Act, expend, administer or dispose of any such property for the purposes of this Act subject to the terms, if any, upon which such property was given, bequeathed or devised to the Administration. Gifts, bequests, etc.

14. The Administration shall be deemed to be a charitable organization in Canada Adminis-
tration
deemed
charitable
organization.

(a) as described in paragraph (e) of subsection (1) of section 62 of the *Income Tax Act*, for the purposes of that Act; and

(b) as described in subparagraph (i) of paragraph (d) of subsection (1) of section 7 of the *Estate Tax Act*, for the purposes of that Act.

15. The accounts and financial transactions of the Administration shall be audited annually by the Auditor General, and a report of the audit shall be made to the Administration and to the Minister. Audit.

16. The Commissioner shall, within three months after the termination of each fiscal year, submit to the Minister a report of all proceedings under this Act for that fiscal year, including the financial statements of the Administration, and the Auditor General's report thereon, and the Minister shall cause such reports to be laid before Parliament within fifteen days after the receipt thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting. Report to
Parliament.

PART II

NATIONAL CONFERENCE ON CANADA'S CENTENNIAL

17. There shall be a National Conference on Canada's Centennial consisting of the Minister and not more than sixty members each of whom shall be appointed by the Minister, including at least two members from each of the ten provinces who shall be appointed by the Minister on the recommendation of the governments of each of the provinces. National
Conference
on Canada's
Centennial.

Chairman
and Vice-
Chairman.

18. (1) The Minister shall be the Chairman of the Conference and may appoint one of the members to be Vice-Chairman.

Vice-
Chairman
to act.

(2) In the event of the absence or incapacity of the Minister, the Vice-Chairman shall act as Chairman.

Objects of
Conference.

19. The objects of the Conference are the consideration and discussion of plans and programmes relating to the Centennial of Confederation in Canada.

Staff.

20. (1) In order to carry out its objects the Conference may utilize the services of such officers and employees employed in the National Centennial Administration as the Commissioner may designate for that purpose.

Advisors.

(2) Subject to subsection (1), the Minister may provide the Conference with such professional and technical assistance for temporary periods or for specific work as the Conference may request, but no such assistance shall be provided otherwise than from the public service of Canada except with the approval of the Treasury Board.

Meetings.

21. The Conference shall meet at least twice a year at such places as the Minister may designate.

Procedure.

22. The Conference may make rules for regulating its proceedings and the performance of its functions and may provide therein for the delegation of any of its duties to any special or standing committees of its members.

Quorum.

23. Twenty members constitute a quorum of the Conference and a vacancy in the membership of the Conference does not impair the right of the remaining members to act.

Remunera-
tion and
expenses.

24. Members of the Conference shall serve without remuneration but are entitled to be paid reasonable travelling and living expenses while absent from their ordinary place of residence in the course of their duties.

Not agent
of Her
Majesty.

25. The Conference is not an agent of Her Majesty and the members of the Conference as such are not part of the public service of Canada.

Expendi-
tures.

26. All expenditures of the Conference shall be paid out of moneys appropriated by Parliament for the purpose.

Regulations.

27. The Governor in Council may make regulations for carrying the purposes and provisions of this Act into effect.

PART VI

DOCUMENTS RELATING
TO THE OFFICE OF
GOVERNOR GENERAL OF CANADA
AND
TO THE OFFICE OF
LIEUTENANT-GOVERNOR

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PART VI

DOCUMENTS RELATING TO THE OFFICE OF

GOVERNOR GENERAL OF CANADA

AND TO THE OFFICE OF LIEUTENANT-GOVERNOR

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NOTES ON THE OFFICE OF GOVERNOR GENERAL

The Governor General: The legislative and the executive powers, passed from the hands of the governor to the Assembly and to the Cabinet, respectively, by the creation of a Legislative Assembly in Nova Scotia in 1758 and by the creation in Canada of the Constitutional régime of 1791. There still remained however the right of disallowance and reservation and also the right of dissolving Parliament.

The powers of jurisdiction of the governor and the instruments creating or confirming them have greatly changed since 1867. For each governor these powers were enumerated in his own commission and in the instructions which he received at the time of his appointment. (It will be noticed in the Letters Patent of 1947 that the Instructions are now deleted, whatever is left of them being included in the Letters Patent.)

Previously the appointment was made by the Imperial government, that is to say, by the King upon the advice of the Colonial Secretary. The British government did not then admit in the instructions given to the first governors that the latter should be, as the king whom they represented, in the position of a constitutional sovereign, in other words, obliged to act upon the advice of their ministers. It was only in 1848 that the Canadian Government was to have responsible government with all its implications.

By virtue of section 55 of the British North America Act the Governor General could withhold Royal Assent to Bills or reserve them for the signification of Royal Pleasure.

Before 1878, the Instructions to the governor were that he should reserve his assent to certain bills. This right of reservation did not permit the governor to refuse his sanction to an act, but allowed him to reserve it for the signification of the King's pleasure. Pursuant to instructions received before 1878, the governors had up to that time reserved twenty-one bills. After that date, the practice of enumerating the acts to be reserved was discontinued and, in 1879, the first bill of divorce received royal assent ("bills relating to divorce" was one of the enumerated classes). The right of disallowance or of reservation had not however been abandoned but a compromise had been reached. In these cases where the jurisdiction of Parliament was doubtful, a clause was inserted in the bill to the effect that the Act would come into force only upon proclamation of the Governor General. This suspending clause allowed negotiations with the Imperial government and if necessary—as in the case of the Copyright Act of 1889—the proclamation was not issued.

The Colonial Conference of 1887 resolved to study and define more exactly the position and the functions of the Governor General. It was then decided that the governor should occupy in this country a position which would correspond to that of the Queen in the United Kingdom, with this difference that the governor could at that time refuse to dissolve Parliament when asked to do so by the party in power if he could find a ministry strong enough to replace the one which had been dismissed; also it was the duty of the governor to finally decide whether or not he was to pardon those condemned to death.

The most important part, however, played by the governor during that period was that of an intermediary between the British government and the colony. It is for this reason that in the case of conflicts between the British and Canadian governments the governor had to

follow the instructions he received from England. If the conflict endured, that is, if the Colonial government refused to yield and could not be replaced, then the Colonial Secretary had to amend or withdraw his instructions.

Since 1890, the colonies had been asked to approve of the choice made by the British government for the position of governor. Thirty years later, this procedure was to be reversed at the instance of the Irish Free State, and it was then the British government which ratified the choice of the new Dominion. Ten years later this procedure was officially adopted for all the Dominions at the Conference of 1930.

The power of disallowance, not having been exercised since 1873, fell into disuse with respect to Canadian acts. The conference of 1930, agreeing with the conference of experts of 1929, recognized that the constitutional position was that the power of disallowance could no longer be exercised in relation to Dominion legislation.

As to the power of reservation it was agreed at the same time that the attainment of the purposes of reservation could not be sought by the use of powers by the government of the United Kingdom and that it is the right of the Government of each Dominion to advise the Crown in all matters relating to its own affairs. In other words, if a bill is to be reserved in Canada by the Governor General it must be upon the advice of the Canadian ministry, and if it is afterwards to be proclaimed, it must again be on the advice of the Canadian Government.

The right which the governor had either to accept or refuse the advice of his ministers as to dissolving Parliament, a right which was so much discussed during the political crisis of 1926, has, in consequence of the decision of the Canadian people at that time, now disappeared and it seems impossible that a governor should refuse to-day to grant a dissolution to the party in power since he is now, as has been declared by the conference of 1926, "in the same position in relation to the administration of public affairs in the Dominions, as is held by His Majesty the King in Great Britain". In England, as is admitted, the King must follow the advice of his ministers. The Governor General therefore must follow the advice of the ministers of the Dominion of which he is the governor. (For a contrary opinion *vide* "*The Royal Power of Dissolution of Parliament in the British Commonwealth*", by Eugene A. Forsey, M.A., Ph.D.)

The report of the conference of 1926 states that the Governor General of a Dominion is neither "the representative or agent of His Majesty's government in Great Britain or of any department of that government".

The Conference of 1930 took special care to define the position of Governors General and arrived at certain conclusions which have been summarized by the late Mr. Justice Mignault as follows: "The Governor General is the King's personal representative and not the agent of His Majesty's government in Great Britain. At the time of his appointment, the government of the Dominion selects its own candidate whom constitutionally the King must accept. It is only a case of the application of the doctrine of ministerial responsibility. The result is that the governor so chosen will exercise the executive power upon the advice of his responsible ministers, but naturally in the name of the King. The government of Great Britain does not intervene in any way."

Therefore, the Governor General has ceased to be the agent of the government of the United Kingdom and to take the advice of the Secretary of State for the Dominion. It will be noted that the new Letters Patent came into force on October 1, 1947, that they supersede as from that date the Letters Patent of 1931 (as amended in 1935) and the Royal Instructions of 1931.

The Royal documents relating to the office of the Governor General had not undergone a careful revision since 1931. The Canadian Government accordingly recommended to His Majesty the issuance of new Letters Patent consolidating the former documents and bringing them up to date.

The principal alterations may be summarized as follows:

- (a) The Commission shall now be under the Great Seal of Canada;
- (b) The Governor General is authorized to exercise on the advice of Canadian Ministers, all of His Majesty's powers and authorities in respect of Canada. (Certain matters will however continue to be submitted by the Canadian Government to the King personally.) Among others it will be legally possible for the Governor General, on the advice of Canadian ministers, to exercise Royal Full Powers for the signing or ratification of treaties, and the issuance of Letters of Credence for Ambassadors, if desired.
- (c) The new Letters Patent revoke and supersede the existing Letters Patent and the existing Royal Instructions. The Instructions have been incorporated in the new Letters Patent which have been issued under the Great Seal of Canada.
- (d) The clause in the Instructions of 1931 to the effect that the Governor General was required to communicate Royal Instructions to the Privy Council of the Dominion has been omitted as being archaic and inconsistent with the present practice and constitutional position.
- (e) Two new clauses have been incorporated in the Letters Patent empowering the Governor General to appoint Consuls and to issue exequaturs.
- (f) A clause has been inserted to provide for the coming into force of the Letters Patent on the date of signature; and finally
- (g) The superscription of the signature has been amended along the lines of the form used for the ratification of Heads of State treaties, to provide for the use of the Great Seal of Canada.

4.

And He reads He did on the twenty second day of May one
thousand eight hundred and sixty seven by and with the advice
of our Hon Council relative to the Proclamation that on and
after the now say of but one thousand eight hundred and sixty seven
being within two months for the passing of the said Act the
Governors of Canada New Scotia and New Brunswick showed
form and by one Lawman under the name of Canada Now
New York that He do by these present Declares his
Measure to be that the said read Letters To line and every clause
Article

10.

advice and strong hairen command shall be and they are hereby
 bound to be received and determined on the said first day
 of July one thousand eight hundred and sixty seven. And
that We do hereby reposing special trust in
confidence in the prudence courage and loyalty of you the said
Charles Stanley Viscount Monck of Our special grace certain
knowledge and mere emotion We have thought fit to constitute and
appoint and do by this present constitute and appoint you to
be on and after the said first day of July one thousand eight
hundred and sixty seven during Our pleasure as
Governor General of Canada. And We do hereby
authorize empower require and command you thereafter
in the manner to do and execute all things that shall
belong to your said command and the trust We have reposed
in you according to the several powers provisions and directions
granted or appointed us by virtue of this Our Commission
and of the said Act of Parliament and according to
such instructions as are herewith given to you or which
may from time to time hereafter be given to you in respect
of the said Dominion of Canada under Our Sign Manual
and Signet or by Our Order in Our Privy Council
or by Us through one of Our Principal Secretaries of State and
according to such laws as are or shall be in force within Our
said Dominion—2. And We do hereby authorize and empower
you to keep and use the Great Seal of Canada for the sealing
of all things whatsoever that shall pass the said Seal.—3. And We do further authorize and empower you to exercise
all such powers as We may be at any time enabled to exercise
in respect of the constitution and appointment of judges and
in cases requiring Commissioners of Wyer and Revenue Customs
of the Treasury and other necessary Officers and Ministers of Our
said Dominion of Canada for the better administration of
justice and putting the laws into execution—4. And We do
hereby give and grant unto you so far as We lawfully may full
power and authority upon sufficient cause to you appearing to
remove from his Office or to suspend from the exercise of the same
any person exercising any Office or place within Our said
Dominion under or by virtue of any Commission or Warrant
granted or which may be granted by Us in Our name or under
Our authority—5. And We do hereby give and grant unto
you full power and authority when you shall see cause in Our
name and on Our behalf to grant to any Offender convicted
of any Crime in any Court or before any Judge Justice or
Magistrate within Our said Dominion a Pardon either free
or subject to legal conditions or any respite of the Execution of the
Sentence of any such Offender for such period as to you may seem
fit.

fit, and to remit any fines, penalties or forfeitures which may become due or payable to us — 6. And We do hereby give full power, sole privilege and authority unto you, our said Lieutenant Governor, in and with respect of assembling or proroguing the House of Commons of Our said Dominion and in governing the said House of Commons. And We do hereby give full power unto you, the several Lieutenant Governors for the time being of the Four Provinces in Our said Dominion with respect to the said Provinces, respectively — 7. And We do by these presents authorize and empower you within Our said Dominion to cause all such persons as may be entitled to exercise Power in that behalf granting Licenses for Marriages, Sellers of Administrations and Probates of Wills and with respect to the custody and management of Lands and Tenements and their Estates and to permit any persons to any Churches Chapels or other Ecclesiastical Houses within Our said Provinces of Nova Scotia and New Brunswick to which We shall from time to time be entitled to present — 8. And We recite by the said Reviled Act it is amongst other things enacted that it shall be lawful for us if We think fit to authorize the Governor General of Canada to appoint any person or persons jointly or severally to be his Deputy or Deputies within any part or parts of Our said Dominion and in that capacity to exercise during his absence of the Governor General such of the powers authorities and functions of the Governor General as he may deem it necessary or expedient to assign to him or them subject to any limitations or directions from time to time expressed or given by Us — Now We do hereby authorize and empower you subject to such limitations and directions as may be expressed or given by Us to appoint any person or persons jointly or severally to be your Deputy or Deputies within any part or parts of Our Dominion of Canada and in that capacity to exercise during your pleasure such of your powers functions and authorities as you may deem it necessary or expedient to assign to him or them. Provided always that the appointment of such a Deputy or Deputies shall not affect the exercise of any such power authority or function by you the said Charles Stanley Viscount Monck in person — 9. And in case of your death incapacity or absence out of Our said Dominion of Canada We do by these presents give and grant all and singular the powers and authorities herein to you granted to Our Lieutenant Governor for the time being of Our said Dominion of Canada or in the absence of any such Lieutenant Governor to such person as he may by Warrant under Our sign Manual and Seal appoint to be the Administrator of the Government of Our said Dominion or in the absence of any such Lieutenant Governor or person as aforesaid to the Senior Military Officer for the time being in command

(12)

of Our Singular Honor in Our said Dominion such
 powers and authorities to be by him executed and enjoyed
 during Our pleasure. 10. And We do hereby require and
 Command all Our Officers and Ministers Civil and
 Military, and all other the Inhabitants of Our said Dominion
 of Canada to be bound aiding and assisting unto you in
 the execution of this Our Commission, and of the powers and
 authorities herein contained. In Witness whereof We have
 caused these Our Letters to be made Patent. Witness Ourself
 at Westminster the first day of June in the fourth year
 of Our King

By Harvard under the Queen's Sign —
Manual

Remilly

**COMMISSION APPOINTING SIR JOHN YOUNG
(LORD LISGAR) TO BE GOVERNOR GENERAL
OF CANADA**

45

Commission Victoria by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender Right Honourable of the Faith, Do come Right Trusty and well beloved Sir John Young, Baronet, Sir John Young, Baronet, Knight, Baronet, &c. &c. of our most Honourable Order of the Bath, a Knight, &c. &c. to be Grand Cross of our most distinguished Order of Saint Michael and Saint George.

Marched 16th
February 1869
Secretary of State
of Canada

Whereas We did by certain Letters Patent under the Great Seal of our United Kingdom of Great Britain and Ireland, bearing date at Westminster the Sixth day of June, one thousand eight hundred and sixty seven, in the Thirtieth Year of Our said Majesty's Majesty, a Statute and Appointment, do come Right Trusty and well beloved Cousin Charles Stanley, Esquire, to be Governor General of Canada, as therein being had to the said recited Letters Patent, with more fully and at large appears.

Now know you that We have Revoled and determined, and by these Presents do Revoke and determine the said recited Letters Patent, and every Clause, Article, and thing therein contained, except so far as relates to the Revocation of the Letters Patent therein recited of the Second day of November, one thousand eight hundred and sixty one. And further know you that We, reposing special trust and confidence in the Prudence, Courage, and loyalty of you the said Sir John Young, of our special Grace, certain knowledge, and on the Motion, have thought fit to constitute and appoint and by these Presents do constitute and appoint you to be our Governor General in and over our Dominion of Canada, for and during Our Will and pleasure. And We do hereby authorize and command you to hold and execute all things in due manner that shall belong to your said Command, and the Trust reposed in you according to the several Statutes, Orders, and Instructions given or appointed you by this Our present Commission, and by the Act of Parliament passed in the Thirtieth Year of Our said Majesty, intituled "The British North America Act, 1867," and the Instructions hereunto given you, or by such further Instructions as may hereafter be given by Us under Our Sign Manual and Signet, or by our Order in our Privy Council.

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or through one of Our Principal Secretaries of State, according to such Laws as are now or shall hereafter be in force in Our said Dominion.

II. And We do hereby Authorize and Empower you to keep and Use the Great Seal of Our said Dominion for sealing all things which so ever shall pass by said Seal.

III. And We do further Authorize and Empower you to constitute and appoint in Our Name and on Our behalf all such Judges, Commissioners, Justices of the Peace, and other necessary Officers and Ministers of Our said Dominion as may be lawfully constituted or appointed by Us.

IV. And We do hereby Authorize and Empower you as you shall see occasion, in Our Name and on Our behalf, to grant to any Offender convicted of any Crime in any Court; or before any Judge, Justice, or Magistrate within Our said Dominion, a Pardon, either free or Subject to lawful conditions, or any Respite of the Execution of the Sentence of any such Offender for such period as to you may seem fit; and to remit any Fines, Penalties, or Forfeitures which may become due and payable to Us.

V. And We do hereby Authorize and Empower you, so far as We lawfully may, upon sufficient Cause to you appearing; to Remove from his Office, or to Suspend from the Exercise of the same, any Person exercising any such Office or Place within Our said Dominion, and to suspend or remove any Person from any Office or Place which may be granted, by Us in our Name, or by Our Authority.

VI. And We do hereby Authorize you to Exercise from time to time, as you may judge necessary, all Powers belonging to Us, in respect of Summoning, or Dismissing the Senate or the House of Commons of Our said Dominion, and of Resolving the said House of Commons, and We do hereby give the like Authority to the several Lieutenant Governors for the time being, of the four Provinces in Our said Dominion with respect to the Legislative Councils, or the Legislative Assemblies, of those Provinces respectively.

VII. And We do by these Presents Authorize and Empower you, within Our said Dominion, to Exercise all such Powers as may be entitled to, or may be claimed in respect of granting Licences for Marriages, Sales of Administrations, and Grants of Mills, and with respect to the Custody and Management of Idiot and Lunatic, and their Estates; and

that he do not send any Person into and to any Churches, Chapels, or other Ecclesiastical Temples within Our said Dominion of New Scotland and New Brunswick, to preach or exercise any Ministry, but that he do send.

VIII. And We hereby the said Lord do hereby empower all things aforesaid, that shall be lawfully done by the Ministry, he will do as he sees fit, without any Let or Hindrance.

Appointing any Person or Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of Canada, and in that capacity to Exercise, during the Pleasure of the Governor General, such of the Powers, Authorities, and Functions, as he or they shall see fit, and it is hereby our Will that he assign to him or them, such Part or any Part of the

Directions from time to time expressed or given by His said Majesty, and We do hereby Authorize and Empower you, Subject to such Limitations and Directions as aforesaid, to appoint any

Person or Persons, jointly or severally, to be your Deputy or Deputies within any Part or Parts of Our said Dominion of Canada, and in that capacity to Exercise, during your Pleasure, such of your Powers, Functions, and Authorities as you may deem it necessary or expedient to assign to him or them, so that always, that the Appointment of such a Deputy or Deputies, shall not affect the Exercise of any such Power, Authority, or Function by you, the said Sir John Young, in Person.

IX. And We do hereby declare our Will to be that in the absence of you, such, in capacity, or absence out of Our said Dominion, all and every the Powers and Authorities herein granted to you shall be, and the same are hereby vested in such Person as may be appointed by Us under Our Sign Manual and Seal; to be Our Lieutenant Governor of Our said Dominion, or if there shall be no such Lieutenant Governor in Our said Dominion, then in such Person or Persons as may be appointed by Us under Our Sign Manual and Seal to administer the Government of the same; and in case there shall be no Person or Persons within Our said Dominion so appointed by Us, then in the Senior Officer for the time being in Command of Our Regular Troops in Our said Dominion; and such Person or Persons, or such Officer, as aforesaid, shall have and Exercise all and every the Powers and Authorities herein granted, until Our further Pleasure shall be signified therein.

X. And We do hereby Require and Command all Our Officers and Ministers, Civil and Military, and all other the Inhabitants of Our said Dominion, to be Obedient to the said Sir John Young, or to the said Lieutenant Governor, or to the said Senior Officer, or to such Person

Person

COMMISSION APPOINTING THE EARL OF DUFFERIN
TO BE GOVERNOR GENERAL OF CANADA

94.

Commission
Appointing
His Right Honourable
Sir Frederic Temple
Earl of Dufferin
K. P. K. C. B. &c. &c.
Governor General of Canada.

Dated 22nd May 1872

Recorded 4th
October 1872

J. C. Atkins
Secretary of State
and Minister of the
Colonies of Canada.

Victoria by the Grace of God of the
United Kingdom of Great Britain and
Ireland Queen &c. &c. &c.
To Our Right Trusty and Right Wellbeloved
Counsellor and Counsellor Frederic Temple Earl
of Dufferin Knight of Our Most Illustrious Order
of the Bath Knight Commander of Our Most
Honourable Order of the Bath

Whereas We did by certain Letters Patent
under the Great Seal of Our United Kingdom of Great
Britain and Ireland bearing date at Westminster the
twenty-ninth day of December One thousand eight
hundred and eighty-eight in the thirty-second year of
Our Reign constitute and appoint Our Right Trusty
and wellbeloved Counsellor Sir John Henry Parnell
now Our Right Trusty and wellbeloved Counsellor
John Barron Lygon Knight Grand Cross of Our Most
Honourable Order of the Bath Knight Grand Cross of Our
Most Distinguished Order of Saint Michael and
Saint George to be Governor General of Canada for
and during Our Will and Pleasure as upon relation
being had to the said recited Letters Patent will more
fully and at large appear

Now Know You that we have revoked and
determined null by these presents do revoke and determine
the said recited Letters Patent and every thing therein
contained And we do know You
that We reposing special Trust and Confidence in
the Prudence Courage and Loyalty of you the said
Frederic Temple Earl of Dufferin of Our special
grace certain Knowledge and mere motion have thought
fit to constitute and appoint And by these presents
constitute and appoint you to be Our Governor General
in and over Our Dominion of Canada for and
during Our Will and Pleasure And We do here
by authorize and command You in due
manner to do and execute all things that shall
belong to you said Command and that we have
reposed in you according to the several powers and
directions granted or appointed you by this Our
present Commission and of the Act of Parliament
passed in the thirtieth year of Our Reign intituled
"The British North America Act 1867" and according

95.

to such instructions as are herewith given to you or as may hereafter be given to you under Our Sign Manual and Signet or by Our Order in Our Privy Council or by the through and by Our Principals Secretaries of State, just according to such Laws as are now or shall hereafter be in force in Our said Dominion.

2. And We do hereby authorize and empower you to keep and use the Great Seal of Our said Dominion for sealing all things whatsoever that shall pass the said Great Seal.

3. And We do further authorize and empower you to constitute and appoint in Our name and on Our behalf all such Judges Commissioners Justices of the Peace and other necessary Officers and Ministers of Our said Dominion as may be lawfully constituted or appointed by Us.

4. And We do further authorize and empower you as you shall see occasion in Our name and on Our behalf when and time may be committed within Our said Dominion to grant or pardon to any accomplice not being the actual perpetrator of such crime who shall give such information and evidence as shall lead to the apprehension and conviction of the principal offender and further to grant to any offender convicted of any crime in any Court or before any Judge Justice or Magistrate within Our said Dominion a Pardon either free or Subject to such Conditions or any or some of the execution of the Sentence of any such Offender for such period as to you may seem fit and to remit any fines Penalties or forfeitures which may become due and payable to Us.

5. And We do further authorize and empower you so far as We lawfully may upon sufficient Cause to you appearing to remove from his Office or to suspend from the exercise of the same any person exercising any such Office or Office within Our said Dominion under any Warrant of any Commissioner Warrant granted or which may be granted by Us in Our name or by Our Authority.

6. And We do further authorize and empower you to exercise from time to time as you may Judge necessary all powers lawfully belonging to Us in respect of dissolving or proroguing the Senate or the House of Commons of Our said Dominion and of dissolving the said House of Commons. And We do hereby give the like Authority to the General

Secretary

76.

Lieutenant Governors for the time being of the
 Provinces in Our Said Dominion with respect to
 the Legislative Councils or the Legislative or Council
 Assemblies of those Provinces respectively—

7. And We do by these Presents Authorize and
 empower You within Our Said Dominion to
 exercise all such powers as We may be entitled to
 exercise therein in respect of granting Licences for
 Marriages Letters of Indulgence and Probates
 Wills and with respect to the custody and management
 of Idiots and Lunatics and their Estates.

8. And whereas by the Said "British North America
 Act 1867" it is amongst other things enacted that
 it shall be lawful for Us if We think fit to authorize
 the Governor General of Canada to appoint any
 person or persons jointly or severally to be his Deputy
 or Deputies within any part or parts of Canada
 and in that Capacity to exercise during the pleasure
 of the Governor General such of the powers author-
 and functions of the Governor General as he may see
 it necessary or expedient to assign to him or them
 subject to any limitations or directions from time
 to time expressed or given by us Now We do hereby
 authorize and empower You subject to such
 limitations and directions as aforesaid to appoint
 any person or persons jointly or severally to be Your
 Deputy or Deputies within any part or parts of Our
 Dominion of Canada and in that Capacity to
 exercise during Your pleasure such of Your powers
 functions and Authorities as you may deem it
 necessary or expedient to assign to him or them.

Provided always that the appointment of
 such Deputy or Deputies shall not affect the exercise
 of any such power Authority or function by you the
 Said Governor General in the Province of Quebec.

9. And We do hereby declare Our Pleasure
 to be that in the event of Your death incapacity
 or absence out of Our Said Dominion all and
 every the powers and Authorities herein granted
 to you shall until Our further Pleasure is
 signified therein be vested in such person
 as may be appointed by Us under Our Sign
 Manual and Signet to be Our Lieutenant Governor
 of Our Said Dominion or if there shall be no
 such Lieutenant Governor in Our Said Dominion
 then in such person or persons as may be appointed

by

I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the appointment of the Earl of Dufferin to the post of Governor-General of Canada. I am very glad to hear that you are so well satisfied with the appointment, and I am sure that the Earl of Dufferin will be a most successful and popular Governor-General. I am, Sir, very respectfully,
 Yours very truly,
 C. B. Smith

By Appointment Under the Great Seal
 C. B. Smith

C. B. Smith

I

CANADA

DRAFT OF LETTERS-PATENT passed under the Great Seal of the United Kingdom, constituting the Office of Governor-General of the Dominion of Canada.⁽¹⁾

Letters
Patent,
Dated 5th
October,
1878.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, Empress of India; To all to whom these Presents shall come, Greeting:

Preamble.

Recites
Governor-
General's
Commission,
22nd May,
1872.

Imperial
Act, 29th
March, 1867,
cap. III.

Revocation
of Governor-
General's
Commission,
22nd May,
1872.

Office of
Governor-
General
constituted.

WHEREAS We did, by certain Letters-Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster the Twenty-second day of May, 1872, in the Thirty-fifth Year of Our Reign, constitute and appoint Our Right Trusty and Right Well-beloved Cousin and Councillor, Frederick Temple, Earl of Dufferin, Knight of Our Most Illustrious Order of Saint Patrick, Knight Commander of Our Most Honourable Order of the Bath (now Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George), to be Our Governor-General in and over Our Dominion of Canada for and during Our will and pleasure: And whereas by the 12th section of "The British North America Act, 1867," certain powers, authorities, and functions were declared to be vested in the Governor-General: And whereas We are desirous of making effectual and permanent provision for the office of Governor-General in and over Our said Dominion of Canada, without making new Letters-Patent on each demise of the said Office: Now know ye that We have revoked and determined, and by these presents do revoke and determine, the said recited Letters-Patent of the Twenty-second day of May, 1872, and every clause, article, and thing therein contained: And further know ye that We, of our special grace, certain knowledge, and mere motion, have thought fit to constitute, order, and declare, and do by these presents constitute, order, and declare, that there shall be a Governor-General (hereinafter called Our said Governor-General) in and over Our Dominion of Canada (hereinafter called Our said Dominion), and that the person who shall fill the said Office of Governor-General shall be from time to time appointed by Commission under Our Sign-Manual and Signet. And We do hereby authorize and command

(1) These Letters Patent dated October 5 and 7, 1878 form a "blanket" constitution of the office of governor general, thus obviating the necessity for revocation of the old letters patent and establishment of new letters patent each time that a change in governors general occurs; each new governor general since then has been appointed by commission.

Our said Governor-General to do and execute, in due manner, all things that shall belong to his said command, and to the trust We have reposed in him, according to the several powers and authorities granted or appointed him by virtue of "The British North America Act, 1867," and of these present Letters-Patent and of such Commission as may be issued to him under Our Sign-Manual and Signet, and according to such Instructions as may from time to time be given to him, under Our Sign-Manual and Signet, or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such Laws as are or shall hereafter be in force in Our said Dominion.

Governor's
powers and
authorities.

II. And We do hereby authorize and empower Our said Governor-General to keep and use the Great Seal of Our said Dominion for sealing all things whatsoever that shall pass the said Great Seal.

Great Seal.

III. And We do further authorize and empower Our said Governor-General to constitute and appoint, in Our name and on Our behalf, all such Judges, Commissioners, Justices of the Peace, and other necessary Officers and Ministers of Our said Dominion, as may be lawfully constituted or appointed by Us.

Appoint-
ment of
Judges,
Justices, &c.

IV. And We do further authorize and empower Our said Governor-General, so far as We lawfully may, upon sufficient cause to him appearing, to remove from his office, or to suspend from the exercise of the same, any person exercising any office within Our said Dominion, under or by virtue of any Commission or Warrant granted, or which may be granted, by Us in Our name or under Our authority.

Suspension
or removal
from office.

V. And We do further authorize and empower Our said Governor-General to exercise all powers lawfully belonging to Us in respect of the summoning, proroguing, or dissolving the Parliament of Our said Dominion.

Summoning,
proroguing,
or dissolving
the
Dominion
Parliament.

VI. And whereas by "The British North America Act, 1867," it is amongst other things enacted, that it shall be lawful for Us, if We think fit, to authorize the Governor-General of Our Dominion of Canada to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of Our said Dominion, and in that capacity to exercise, during the pleasure of Our said Governor-General, such of the powers, authorities, and functions of Our said Governor-General as he may deem it necessary or expedient to assign to such Deputy or Deputies, subject to any limitations or directions from time to time expressed or given by Us: Now We do hereby authorize and empower Our said Governor-General, subject to such limitations and directions as aforesaid, to appoint any person or persons, jointly or severally to be his Deputy or Deputies within any part or parts of Our said Dominion of Canada, and

Power to
appoint
Deputies.

in that capacity to exercise, during his pleasure, such of his powers, functions, and authorities, as he may deem it necessary or expedient to assign to him or them: Provided always, that the appointment of such a Deputy or Deputies shall not affect the exercise of any such power, authority or function by Our said Governor-General in person.

Succession
to the
Government.

VII. And We do hereby declare Our pleasure to be that, in the event of the death, incapacity, removal, or absence of Our said Governor-General out of Our said Dominion, all and every the powers and authorities herein granted to him shall, until Our further pleasure is signified therein, be vested in such person as may be appointed by Us under Our Sign-Manual and Signet to be Our Lieutenant-Governor of Our said Dominion; or if there shall be no such Lieutenant-Governor in Our said Dominion, then in such person or persons as may be appointed by Us under Our Sign-Manual and Signet to administer the Government of the same; and in case there shall be no person or persons within Our said Dominion so appointed by Us, then in the Senior Officer for the time being in command of our regular troops in Our said Dominion: Provided that no such powers or authorities shall vest in such Lieutenant-Governor, or such other person or persons, until he or they shall have taken the oaths appointed to be taken by the Governor-General of Our said Dominion, and in the manner provided by the Instructions accompanying these Our Letters-Patent.

Proviso.
Lieutenant-
Governor,
&c., to take
oaths of
office before
administer-
ing the
Government.

Officers and
others to
obey and
assist the
Governors-
General.

VIII. And we do hereby require and command all Our Officers and Ministers, Civil and Military, and all other the inhabitants of Our said Dominion, to be obedient, aiding, and assisting unto Our said Governor-General, or, in the event of his death, incapacity, or absence, to such person or persons as may, from time to time, under the provisions of these Our Letters Patent, administer the Government of Our said Dominion.

Power
reserved to
Her Majesty
to revoke,
alter, or
amend the
present
Letters-
Patent.

IX. And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters-Patent as to Us or them shall seem meet.

Publication
of Letters-
Patent.

X. And We do further direct and enjoin that these Our Letters-Patent shall be read and proclaimed at such place or places as Our said Governor-General shall think fit within Our said Dominion of Canada.

In Witness whereof We have caused these Our Letters to be made Patent. Witness Ourselves at Westminster, the Fifth day of October, in the Forty-second Year of Our Reign.

By Warrant under the Queen's Sign-Manual.

C. ROMILLY.

VICTORIA R.

Given at Our Court at Balmoral, this Fifth day of October, 1878, in the Forty-second year of Our Reign.

Preamble.

Recites
Letters-
Patent,
dated 5th
October,
1878, consti-
tuting the
office of
Governor-
General.

Publication
of Governor-
General's
Commission.

Oaths to be
taken by
Governor-
General, &c.

Imperial
Act, 31 and
32 Vict.,
c. 72.

Our Reign, intituled "An Act to Amend the Law relating to Promissory Oaths;" and likewise that he or they shall take the usual Oath for the due execution of the Office of Our Governor-General in and over Our said Dominion, and for the due and impartial administration of justice; which Oaths the said Chief Justice for the time being of Our said Dominion, or, in his absence, or in the event of his being otherwise incapacitated, any Judge of the Supreme Court of Our said Dominion shall, and he is hereby required to tender and administer unto him or them.

Oaths to be
adminis-
tered by the
Governor-
General.

II. And We do authorize and require Our said Governor-General from time to time, by himself or by any other person to be authorized by him in that behalf, to administer to all and to every person or persons, as he shall think fit, who shall hold any office or place of trust or profit in Our said Dominion, the said Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Laws or Statutes in that behalf made and provided.

Governor-
General to com-
muni-
cate Instruc-
tions to the
Privy Coun-
cil of the
Dominion.

III. And We do require Our said Governor-General to communicate forthwith to the Privy Council for Our said Dominion these Our Instructions, and likewise all such others, from time to time, as he shall find convenient for Our service to be imparted to them.

Laws sent
home to have
marginal
abstracts.

IV. Our said Governor-General is to take care that all laws assented to by him in Our name, or reserved for the signification of Our pleasure thereon, shall, when transmitted by him, be fairly abstracted in the margins, and be accompanied, in such cases as may seem to him necessary, with such explanatory observations as may be required to exhibit the reasons and occasions for proposing such Laws; and he shall also transmit fair copies of the Journals and Minutes of the proceedings of the Parliament of Our said Dominion, which he is to require from the clerks, or other proper officers in that behalf, of the said Parliament.

Journals
and
Minutes.

Grant of
pardons.

V. And We do further authorize and empower Our said Governor-General, as he shall see occasion, in Our name and on Our behalf, when any crime has been committed for which the offender may be tried within Our said Dominion, to grant a pardon to any accomplice, not being the actual perpetrator of such crime, who shall give such information as shall lead to the conviction of the principal offender; and further, to grant to any offender convicted of any crime in any Court, or before any Judge, Justice, or Magistrate, within Our said Dominion, a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to Our said Governor-General may seem fit, and to remit any fines, penalties, or forfeitures which may become due

Remission
of fines.

and payable to Us. Provided always, that Our said Governor-General shall not in any case, except where the offence has been of a political nature, make it a condition of any pardon or remission of sentence that the offender shall be banished from or shall absent himself from Our said Dominion. And We do hereby direct and enjoin that Our said Governor-General shall not pardon or reprieve any such offender without first receiving in capital cases the advice of the Privy Council for Our said Dominion, and in other cases the advice of one, at least, of his Ministers; and in any case in which such pardon or reprieve might directly affect the interests of Our Empire, or of any country or place beyond the jurisdiction of the Government of Our said Dominion, Our said Governor-General shall, before deciding as to either pardon or reprieve, take those interests specially into his own personal consideration in conjunction with such advice as aforesaid.

Proviso—
Banishment
from the
Dominion
prohibited.

Exception—
Political
offences.

Regulation
of power
of pardon.

VI. And whereas great prejudice may happen to Our service and to the security of Our said Dominion by the absence of Our said Governor-General, he shall not, upon any pretence whatever, quit Our said Dominion without having first obtained leave from Us for so doing under Our Sign-Manual and Signet, or through one of Our Principal Secretaries of State.

Governor-
General's
absence.

V.R.

CANADA

DRAFT OF A COMMISSION passed under the Royal Sign-Manual and Signet, appointing the Right Honourable the Marquis of Lorne, K.T., G.C.M.G., to be Governor-General of the Dominion of Canada.

VICTORIA R.

Dated 7th
October,
1878.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, Empress of India, To Our Right, Trusty, and Well-beloved Councillor, Sir John Douglas Sutherland Campbell (commonly called the Marquis of Lorne), Knight of Our Most Ancient and Most Noble Order of the Thistle, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Greeting:

Appoint-
ment of
The Marquis
of Lorne as
Governor-
General.

WE do, by this Our Commission under Our Sign-Manual and Signet, appoint you, the said Sir John Douglas Sutherland Campbell (commonly called the Marquis of Lorne), until Our further pleasure shall be signified, to be Our Governor-General in and over Our Dominion of Canada during Our will and pleasure, with all and singular the powers and authorities granted to the Governor-General of Our said Dominion in Our Letters-Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, constituting the Office of Governor, bearing date at Westminster the Fifth day of October, 1878, in the Forty-second year of Our Reign, which said powers and authorities We do hereby authorize you to exercise and perform, according to such Orders and Instructions as Our said Governor-General for the time being hath already or may hereafter receive from Us. And for so doing this shall be your Warrant.

Recites
Letters-
Patent,
dated 5th
October,
1878, consti-
tuting the
office of
Governor.

Officers, &c.,
to obey the
Governor-
General.

II. And We do hereby command all and singular Our officers, Ministers, and loving subjects in Our said Dominion, and all others whom it may concern, to take due notice hereof, and to give their ready obedience accordingly.

Given at Our Court at Balmoral, this Seventh day of October, 1878, in the Forty-second year of Our Reign.

By Her Majesty's Command,

M. E. HICKS BEACH.

CANADA

LETTERS PATENT
DATED MARCH 23, 1931⁽¹⁾

LETTERS PATENT passed under the Great Seal of the Realm,
constituting the Office of the Governor General and
Commander-in-Chief of the Dominion of Canada.

Dated: 23rd March, 1931.

GEORGE THE FIFTH, by the Grace of God, of Great Britain,
Ireland and the British Dominions beyond the Seas King,
Defender of the Faith, Emperor of India; To all to whom
these Presents shall come, GREETING:

WHEREAS by certain Letters Patent under the Great Seal
bearing date at Westminster the Fifteenth day of June, 1905,
His Late Majesty King Edward the Seventh did constitute, order,
and declare that there should be a Governor General in and
over Our Dominion of Canada, and that the person filling the
said office of Governor General should be from time to time
appointed by Commission under the Royal Sign Manual and
Signet:

Preamble.
Recites
Letters
Patent of
15th June,
1905.

And whereas, it is Our Will and pleasure to revoke the said
Letters Patent, and to substitute other provisions in place
thereof:

Now therefore We do by these presents revoke and deter-
mine the said recited Letters Patent, and everything therein
contained, but without prejudice to anything lawfully done
thereunder:

Revokes
Letters
Patent of
15th June,
1905.

And We do declare Our Will and pleasure as follows:

I. We do hereby Constitute, order, and declare that there
shall be a Governor General and Commander-in-Chief in and
over Our Dominion of Canada (hereinafter called Our said
Dominion), and appointments to the said office shall be made
by Commission under Our Sign Manual and Signet.

Office of
Governor
General and
Commander-
in-Chief
constituted.

And We do hereby authorize and command Our said
Governor General and Commander-in-Chief (hereinafter called
Our said Governor General) to do and execute, in due manner,
all things that shall belong to his said office, and to the trust We
have reposed in him, according to the several powers and
authorities granted or appointed him by virtue of "The British
North America Act, 1867," and of these present Letters Patent
and of such Commission as may be issued to him under Our Sign

His powers
and
authorities.

(1) In effect prior to October 1, 1947.

Manual and Signet, and according to such Instructions as may from time to time be given to him under Our Sign Manual and Signet and to such Laws as are or shall hereafter be in force in Our said Dominion.

Great Seal.

II. And We do hereby authorize and empower Our said Governor General to keep and use the Great Seal of Our said Dominion for sealing all things whatsoever that shall pass the said Great Seal.

Appoint-
ment of
Judges,
Justices,
etc.

III. And We do further authorize and empower Our said Governor General to constitute and appoint, in Our Name and on Our behalf, all such Judges, Commissioners, Justices of the Peace, and other necessary Officers and Ministers of Our said Dominion, as may be lawfully constituted or appointed by Us.

Suspension
or removal
from office.

IV. And We do further authorize and empower Our said Governor General, so far as We lawfully may, upon sufficient cause to him appearing, to remove from his office, or to suspend from the exercise of the same, any person exercising any office within Our said Dominion, under or by virtue of any Commission or Warrant granted, or which may be granted, by Us in Our name or under Our authority.

Summoning,
proroguing,
or dissolving
the
Dominion
Parliament.

V. And We do further authorize and empower Our said Governor General to exercise all powers lawfully belonging to Us in respect of the summoning, proroguing or dissolving the Parliament of Our said Dominion.

Power to
appoint
Deputies.

VI. And whereas by "The British North America Act, 1867," is amongst other things enacted that it shall be lawful for Us, if We think fit, to authorize the Governor General of Our Dominion of Canada to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of Our said Dominion, and in that capacity to exercise, during the pleasure of Our said Governor General, such of the powers, authorities, and functions of Our said Governor General as he may deem it necessary or expedient to assign to such Deputy or Deputies, subject to any limitations or directions from time to time expressed or given by Us: Now We do hereby authorize and empower Our said Governor General, subject to such limitations and directions as aforesaid, to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of Our said Dominion of Canada, and in that capacity to exercise, during his pleasure, such of his powers, functions, and authorities, as he may deem it necessary or expedient to assign to him or them: Provided always, that the appointment of such a Deputy or Deputies shall not affect the exercise of any such powers, authority or function by Our said Governor General in person.

Succession
to the
Government.

VII. And We do hereby declare Our pleasure to be that, in the event of the death, incapacity, removal or absence of Our said Governor General out of Our said Dominion, all and every

the powers and authorities herein granted to him shall, until Our further pleasure is signified therein, be vested in such person as may be appointed by Us under Our Sign Manual and Signet to be Our Lieutenant-Governor of Our said Dominion; or if there shall be no such Lieutenant-Governor in Our said Dominion, then in such person or persons as may be appointed by Us under Our Sign Manual and Signet to administer the Government of the same; and in case there shall be no person or persons within Our said Dominion so appointed by Us, then in Our Chief Justice for the time being of the Supreme Court of Our said Dominion, or, in case of the death, incapacity, removal, or absence out of Our said Dominion of Our said Chief Justice for the time being, then in the Senior Judge for the time being of Our said Supreme Court then residing in Our said Dominion and not being under incapacity.

Provided always, that the Senior Judge shall act in the administration of the Government only if and when Our said Chief Justice shall not be present within Our said Dominion and capable of administering the Government. Proviso.

Provided further that no such powers or authorities shall vest in such Lieutenant-Governor, or such other person or persons, until he or they shall have taken the Oaths appointed to be taken by the Governor General of Our said Dominion, and in the manner provided by the Instructions accompanying these Our Letters Patent. Lieutenant-Governor, etc., to take oaths of office before administering the Government.

VIII. And We do hereby require and command all Our Offices and Ministers, Civil and Military, and all other the inhabitants of Our said Dominion to be obedient, aiding, and assisting unto Our said Governor General, or, in the event of his death, incapacity, or absence, to such person or persons as may, from time to time, under the provisions of these Our Letters Patent, administer the Government of Our said Dominion. Officers and others to obey and assist the Governor General.

IX. And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters Patent as to Us or them shall seem meet. Power reserved to His Majesty to revoke, alter, or amend the present Letters Patent.

X. And we do further direct and enjoin that these Our Letters Patent shall be read and proclaimed at such place or places as Our said Governor General shall think fit within Our said Dominion of Canada. Publication of Letters Patent.

IN WITNESS whereof We have caused these Our Letters to be made Patent. Witness Ourselves at Westminster the twenty-third day of March in the Twenty-first Year of Our Reign.

By Warrant under the King's Sign Manual.

"SCHUSTER."

ROYAL INSTRUCTIONS

DATED MARCH 23, 1931

“George R.I.”

Instructions to Our Governor General and Commander-in-Chief in and over Our Dominion of Canada, or, in his absence, to Our Lieutenant-Governor or other Officer for the time being administering the Government of Our Said Dominion.

Given at Our Court at Saint James, the Twenty-third day of March, 1931, in the Twenty-first of Our Reign.

Preamble.

Recites
Letters
Patent
constituting
the Office of
Governor
General and
Commander-
in-Chief.

WHEREAS by certain Letters Patent bearing even date herewith We have constituted, ordered, and declared that there shall be a Governor General and Commander-in-Chief (hereinafter called Our said Governor General) in and over Our Dominion of Canada (hereinafter called our said Dominion), and We have thereby authorized and commanded Our said Governor General to do and execute in due manner all things that shall belong to his said office, and to the trust We have reposed in him, according to the several powers and authorities granted or appointed him by virtue of the said Letters Patent and of such Commission as may be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him under Our Sign Manual and Signet, and to such Laws as are or shall hereafter be in force in Our said Dominion: Now, therefore, We do, by these Our Instructions under Our Sign Manual and Signet, declare Our Pleasure to be as follows:

Publication
of Governor
General's
Commission.

I. Our said Governor General for the time being shall, with all due solemnity, cause Our Commission under Our Sign Manual and Signet, appointing Our said Governor General for the time being, to be read and published in the presence of the Chief Justice for the time being, or other Judge of the Supreme Court of Our said Dominion, and of the members of the Privy Council in Our said Dominion.

Oaths to be
taken by
Governor
General, etc.

Our said Governor General, and every other Officer appointed to administer the Government of Our said Dominion, shall take the Oath of Allegiance in the form following: “I,, do swear that I will be faithful and bear true allegiance to His Majesty King George, His heirs and successors, according to law, So Help me God;” and likewise he or they shall take the usual Oath for the due execution of the Office of Our Governor General and Commander-in-Chief

in and over Our said Dominion, and for the due and impartial administration of justice; which Oaths the said Chief Justice for the time being of Our said Dominion, or, in his absence, or in the event of his being otherwise incapacitated, any Judge of the Supreme Court of Our said Dominion shall, and he is hereby required to, tender and administer unto him or them.

II. And We do authorize and require Our said Governor General from time to time, by himself or by any other person to be authorized by him in that behalf, to administer to all and to every person or persons, as he shall think fit, who shall hold any office or place of trust or profit in Our said Dominion, the said Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Laws or Statutes in that behalf made and provided.

Oaths to be administered by the Governor General.

III. And We do require Our said Governor General to communicate forthwith to the Privy Council for Our said Dominion these Our Instructions, and likewise all such others, from time to time, as he shall find convenient for Our Service to be imparted to them.

Governor General to communicate Instructions to the Privy Council of the Dominion.

IV. Our said Governor General is to take care that all Laws assented to by him in Our name, or reserved for the signification of Our pleasure thereon, shall, when transmitted by him, be fairly abstracted in the margins, and be accompanied, in such cases as may seem to him necessary, with such explanatory observations as may be required to exhibit the reasons and occasions for proposing such Laws; and he shall also transmit fair copies of the Journals and Minutes of the proceedings of the Parliament of Our said Dominion, which he is to require from the clerks, or other proper officers in that behalf, of the said Parliament.

Laws sent home to have marginal abstracts.

Journals and Minutes.

V. And We do further authorize and empower Our said Governor General, as he shall see occasion, in Our Name and in Our behalf, when any crime or offence against the Laws of Our said Dominion has been committed for which the offender may be tried therein, to grant a pardon to any accomplice in such crime or offence, who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders if more than one; and further, to grant to any offender convicted of any such crime or offence in any Court, or before any Judge, Justice, or Magistrate, within Our said Dominion, a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to Our said Governor General may seem fit, and to remit any fines, penalties, or forfeitures which may become due and payable to Us. And We do hereby direct and enjoin that Our said Governor General shall not pardon or reprove any such offender without first receiving in capital

Grant of Pardons.

Remission of fines.

Regulation of power of pardon.

cases the advice of the Privy Council for Our said Dominion, and in other cases the advice of one, at least, of his Ministers; and in any case in which such pardon or reprieve might directly affect the interests of Our Empire, or of any country or place beyond the jurisdiction of Government of Our said Dominion, Our said Governor General shall, before deciding as to either pardon or reprieve, take those interests specially into his own personal consideration in conjunction with such advice as aforesaid.

Governor
General's
absence.

VI. And whereas great prejudice may happen to Our Service and to the security of Our said Dominion by the absence of Our said Governor General, he shall not, upon any pretence whatever, quit Our said Dominion without having first obtained leave from Us for so doing under Our Sign Manual and Signet, or through the Prime Minister of Our said Dominion.

By Warrant under the King's Sign Manual.

"SCHUSTER."

LETTERS PATENT
DATED SEPTEMBER 25, 1935

Amending the Letters Patent Dated March 23, 1931

GEORGE THE FIFTH, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India; To all to whom these Presents shall come, GREETING:

WHEREAS by certain Letters Patent under the Great Seal bearing date at Westminster the Twenty-third day of March, 1931, We did constitute, order, and declare that there should be a Governor General in and over Our Dominion of Canada, and that the person filling the said office of Governor General should be from time to time appointed by Commission under the Royal Sign Manual and Signet:

Preamble.

Recites
Letters
Patent of
23rd March,
1931.

And whereas by the Seventh Clause of the said Letters Patent provision was made for the administration of the Government of the Dominion in certain events:

And whereas We are minded to make further provision for the temporary absence of the Governor General from the Dominion:

Now know ye that We do hereby declare Our Will and Pleasure and direct and ordain as follows:

I. The following clause shall be added after the said Seventh Clause:

Amends
Seventh
Clause of
Letters
Patent of
23rd March,
1931.

“VIIA. Whenever and so often as the Governor General shall be temporarily absent from the Dominion, with Our permission, for the purpose of visiting some neighbouring State or territory, for a period not exceeding one month, then and in every such case the Governor General may continue to exercise all and every the powers vested in him as fully as if he were residing within the Dominion, including the power to appoint a Deputy or Deputies as provided in the Sixth Clause of these Our Letters Patent.”

II. And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters Patent as to Us or them shall seem meet.

Power
reserved to
His Majesty
to revoke,
alter, or
amend the
present
Letters
Patent.

Publication
of Letters
Patent.

III. And We do further direct and enjoy that these Our Letters Patent shall be read and proclaimed at such place or places as Our said Governor General shall think fit within Our said Dominion of Canada.

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourselves at Westminster, the Twenty-fifth day of September, in the Twenty-sixth year of Our Reign.

By Warrant under the King's Sign Manual.

“SCHUSTER.”

LETTERS PATENT CONSTITUTING THE OFFICE OF GOVERNOR GENERAL OF CANADA

Effective Oct. 1, 1947

"GEORGE R."

CANADA

GEORGE THE SIXTH, by the Grace of God, of Great Britain,
Ireland and the British Dominions beyond the Seas
KING, Defender of the Faith.

[SEAL]

To all to whom these Presents shall come,

GREETING:

Whereas by certain Letters Patent under the Great Seal bearing date at Westminster the Twenty-third day of March, 1931, His late Majesty King George the Fifth did constitute, order, and declare that there should be a Governor General and Commander-in-Chief in and over Canada, and that the person filling the office of Governor General and Commander-in-Chief should be from time to time appointed by Commission under the Royal Sign Manual and Signet:

Preamble.
Recites
Letters
Patent of
23rd March,
1931.

And whereas at St. James, on the Twenty-third day of March, 1931, His late Majesty King George the Fifth did cause certain Instructions under the Royal Sign Manual and Signet to be given to the Governor General and Commander-in-Chief:

And whereas it is Our Will and pleasure to revoke the Letters Patent and Instructions and to substitute other provisions in place thereof:

Now therefore we do by these presents revoke and determine the said Letters Patent, and everything therein contained, and all amendments thereto, and the said Instructions, but without prejudice to anything lawfully done thereunder:

Revokes
Letters
Patent of
23rd March,
1931, and
Instruc-
tions.

And we do declare Our Will and pleasure as follows:

I. We do hereby constitute, order, and declare that there shall be a Governor General and Commander-in-Chief in and over Canada, and appointments to the Office of Governor General and Commander-in-Chief in and over Canada shall be made by Commission under Our Great Seal of Canada.

Office of
Governor
General and
Commander-
in-Chief
constituted.

His powers
and
authorities.

II. And We do hereby authorize and empower Our Governor General, with the advice of Our Privy Council for Canada or of any members thereof or individually, as the case requires, to exercise all powers and authorities lawfully belonging to Us in respect of Canada, and for greater certainty but not so as to restrict the generality of the foregoing to do and execute, in the manner aforesaid, all things that may belong to his office and to the trust We have reposed in him according to the several powers and authorities granted or appointed him by virtue of The British North America Acts, 1867 to 1946 and the powers and authorities hereinafter conferred in these Letters Patent and in such Commission as may be issued to him under Our Great Seal of Canada and under such laws as are or may hereinafter be in force in Canada.

Great Seal.

III. And We do hereby authorize and empower Our Governor General to keep and use Our Great Seal of Canada for sealing all things whatsoever that may be passed under Our Great Seal of Canada.

Appoint-
ment of
Judges,
Justices, etc.

IV. And We do further authorize and empower Our Governor General to constitute and appoint, in Our name and on Our behalf, all such Judges, Commissioners, Justices of the Peace, and other necessary Officers (including diplomatic and consular officers) and Ministers of Canada, as may be lawfully constituted or appointed by Us.

Suspension
or removal
from Office.

V. And We do further authorize and empower Our Governor General, so far as We lawfully may, upon sufficient cause to him appearing, to remove from his office, or to suspend from the exercise of the same, any person exercising any office within Canada, under or by virtue of any Commission or Warrant granted, or which may be granted, by Us in Our name or under Our authority.

Summoning,
proroguing,
or dissolv-
ing the
Parliament
of Canada.

VI. And We do further authorize and empower Our Governor General to exercise all powers lawfully belonging to Us in respect of summoning, proroguing or dissolving the Parliament of Canada.

Power to
appoint
Deputies.

VII. And whereas by The British North America Acts, 1867 to 1946, it is amongst other things enacted that it shall be lawful for Us, if We think fit, to authorize Our Governor General to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of Canada, and in that capacity to exercise, during the pleasure of Our Governor General, such of the powers, authorities, and functions of Our Governor General as he may deem it necessary or expedient to assign to such Deputy or Deputies, subject to any limitations or directions from time to time expressed or given

by Us: Now We do hereby authorize and empower Our Governor General, subject to such limitations and directions, to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of Canada, and in that capacity to exercise, during his pleasure, such of his powers, functions, and authorities as he may deem it necessary or expedient to assign to him or them: Provided always, that the appointment of such a Deputy or Deputies shall not affect the exercise of any such power, authority or function by Our Governor General in person.

VIII. And We do hereby declare Our pleasure to be that, in the event of the death, incapacity, removal, or absence of Our Governor General out of Canada, all and every, the powers and authorities herein granted to him shall until Our further pleasure is signified therein, be vested in Our Chief Justice for the time being of Canada (hereinafter called Our Chief Justice) or, in the case of the death, incapacity, removal or absence out of Canada of Our Chief Justice, then in the Senior Judge for the time being of the Supreme Court of Canada, then residing in Canada and not being under incapacity; such Chief Justice or Senior Judge of the Supreme Court of Canada, while the said powers and authorities are vested in him to be known as Our Administrator.

Succession.

Provided always, that the said Senior Judge shall act in the administration of the Government only if and when Our Chief Justice shall not be present within Canada and capable of administering the Government.

Provided further that no such powers or authorities shall vest in such Chief Justice, or other judge of the Supreme Court of Canada, until he shall have taken the Oaths appointed to be taken by Our Governor General.

Proviso.

Provided further that whenever and so often as Our Governor General shall be temporarily absent from Canada, with Our permission, for a period not exceeding one month, then and in every such case Our Governor General may continue to exercise all and every the powers vested in him as fully as if he were residing within Canada, including the power to appoint a Deputy or Deputies as provided in the Eighth Clause of these Our Letters Patent.

Administrator to take oaths of office before administering the Government.

IX. And We do hereby require and command all Our Officers and Ministers, Civil and Military, and all the other inhabitants of Canada, to be obedient, aiding, and assisting unto Our Governor General, or, in the event of his death, incapacity, or absence, to such person as may, from time to time, under the provisions of these Our Letters Patent administer the Government of Canada.

Officers and others to obey and assist the Governor General.

Publication
of Governor
General's
Commission.

X. And We hereby declare Our Pleasure to be that Our Governor General for the time being shall with all due solemnity, cause Our Commission under Our Great Seal of Canada, appointing Our Governor General for the time being, to be read and published in the presence of Our Chief Justice, or other Judge of the Supreme Court of Canada, and of members of Our Privy Council for Canada, and that Our Governor General shall take the Oath of Allegiance in the form following:

Oaths to be
taken by
Governor
General, etc.

"I, do swear that I will be faithful and bear true allegiance to His Majesty King George the Sixth, His Heirs and successors, according to law. So Help me God"; and likewise he shall take the usual oath for the due execution of the Office of Our Governor General and Commander-in-Chief in and over Canada, and for the due and impartial administration of justice; which Oaths Our Chief Justice, or, in his absence, or in the event of his being otherwise incapacitated, any Judge of the Supreme Court of Canada shall, and he is hereby required to, tender and administer unto him.

Oaths to be
adminis-
tered by the
Governor
General.

XI. And We do authorize and require Our Governor General from time to time, by himself or by any other person to be authorized by him in that behalf, to administer to all and to every person or persons, as he shall think fit, who shall hold any office or place of trust or profit in Canada, that said Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Laws or Statutes in that behalf made and provided.

Grant of
Pardons.

XII. And We do further authorize and empower Our Governor General, as he shall see occasion, in Our name and on Our behalf, when any crime or offence against the laws of Canada has been committed for which the offender may be tried thereunder, to grant a pardon to any accomplice, in such crime or offence, who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders if more than one; and further to grant to any offender convicted of any such crime or offence in any court, or before any Judge, Justice, or Magistrate, administering the laws of Canada, a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to Our Governor General may seem fit, and to remit any fines, penalties, or forfeitures which may become due and payable to Us. And We do hereby direct and enjoin that Our Governor General shall not pardon or reprieve any such offender without first receiving in capital cases the advice of Our Privy Council for Canada and, in other cases, the advice of one at least, of his Ministers.

Power to
issue
Exequaturs.

XIII. And We do further authorize and empower Our Governor General to issue Exequaturs, in Our name and on Our behalf, to Consular Officers of foreign countries to whom Commissions of Appointment have been issued by the Heads of States of such countries.

XIV. And whereas great prejudice may happen to Our Service and to the security of Canada by the absence of Our Governor General, he shall not quit Canada without having first obtained leave from Us for so doing through the Prime Minister of Canada.

Governor General's absence.

XV. And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters Patent as to Us or them shall seem meet.

Power reserved to His Majesty to revoke, alter or amend the present Letters Patent.

XVI. And We do further direct and enjoin that these Our Letters Patent shall be read and proclaimed at such place or places within Canada as Our Governor General shall think fit.

Publication of Letters Patent.

XVII. And We do further declare that these Our Letters Patent shall take effect on the first day of October, 1947.

Coming into effect of Letters Patent.

IN WITNESS WHEREOF We have caused these Our Letters to be made Patent, and for the greater testimony and validity thereof, We have caused Our Great Seal of Canada to be affixed to these presents, which We have signed with Our Royal Hand.

GIVEN the eighth day of September in the Year of Our Lord One Thousand Nine Hundred and Forty-Seven and in the Eleventh Year of Our Reign.

BY HIS MAJESTY'S COMMAND.

"W. L. MACKENZIE KING",
Prime Minister of Canada.

DOCUMENTS RELATING TO THE OFFICE OF LIEUTENANT-GOVERNOR OF A PROVINCE

The Form of Commission of the Lieutenant-Governor⁽¹⁾

Know YOU, that We, reposing special trust and confidence in the prudence, courage, loyalty, integrity and ability of you the said have, by and with the advice of Our Privy Council for Canada, thought fit to constitute and appoint, and We do hereby constitute and appoint you the said, to be the Lieutenant-Governor in and over the Province of, one of the Provinces of Canada, during the will and pleasure of Our Governor General of Canada.

And We do hereby authorize and empower and command you the said, in due manner to do and execute all things that shall belong to your said command and the trust We have reposed in you, according to the several powers, provisions and directions granted or appointed you by virtue of the Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the thirtieth year of Her late Majesty's Reign, called and known as "*British North America Act, 1867*," and of all other statutes in that behalf and of this

(1) Prior to Confederation the authority of the Crown was represented, and monarchical functions were discharged, in the British North American colonies by a Governor or Lieutenant-Governor. This officer was nominated to his office by the Sovereign-in-Council and appointed by letters patent under the Great Seal. His jurisdiction and powers were defined by the terms of his commission and, in further detail, by the royal instructions that accompanied it. It is noteworthy that the study of these commissions and instructions issued to the Governors prior to the *British North America Act* is the study of the development of the constitutional law of Canada. Although they varied from Governor to Governor, the later commissions and instructions empowered the Governor to exercise such royal prerogatives as the assembling, proroguing and dissolving of the colonial legislatures; the power of disallowance of offensive local bills, the authority to establish courts of justice; the authority to pardon criminal offenders within his jurisdiction. They also contained a wide grant of legislative power. Further, by these royal instruments, the Governor could enact measures concerning militia and defence; he had control over all moneys to be expended for the public service and the disposition of Crown lands.

Many of the early commissions and instructions may be found in *Can. Sess. Pap.*, 1883, No. 70; 1906, No. 18.

See also Todd, *Parliamentary Government in the British Colonies*, 2nd ed., 1894 at pp. 34ff.

These notes are taken from "Memorandum on the Office of Lieutenant-Governor of a Province: its constitutional character and functions" by Prof. James McL. Hendry. (March, 1955, Department of Justice, Ottawa.)

Our Present Commission, according to such instructions as are herewith given to you *and hereunto annexed* or which may from time to time be given to you, in respect of the said Province of, under the sign manual of Our Governor General of Canada or by Order of Our Privy Council for Canada, and according to such laws as are or may be in force within the said Province of

And We do hereby further appoint that so soon as you shall have taken the prescribed oaths and entered upon the duties of your office, this Our Present Commission shall supersede Our Commission under the Great Seal of Canada, bearing date day of, one thousand nine hundred and, appointing to be the Lieutenant-Governor of the said Province of

In Testimony whereof We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed.

WITNESS, Etc., Etc.

At Our Government House in Our City of Ottawa, this day of in the year of Our Lord one thousand nine hundred and and in the year of Our Reign

The Form of Instructions to the Lieutenant-Governors⁽²⁾

WHEREAS it is enacted in and by "*The British North America Act, 1867*", that for each Province there shall be an Officer, styled the Lieutenant-Governor, appointed by the Governor General in Council by instrument under the Great Seal of Canada; and whereas, by and with the advice of the Queen's Privy Council of Canada, I have, by Commission under the Great Seal of Canada, constituted and appointed
.....to be Lieutenant-Governor in and over the said Province of one of the Provinces of Canada, and thereby authorized and empowered and commanded him in due manner, to do and execute all things belonging to his said command and trust according to the several powers, provisions and directions granted or appointed to him by virtue of the said Act, and of all other Statutes in that behalf, and of the said Commission, according to such instructions as were with the said Commission given unto him, or which might, from time to time, be given to him in respect to the said Province....., under my Sign Manual or by order of the Queen's Privy Council for Canada, and according to such laws as are or may be in force within the said Province of

I. Now, therefore, I do by these my Instructions under my Sign Manual, by and with the advice of the Queen's Privy Council for Canada, declare my pleasure to be that the Lieutenant-Governor of the Province of..... for the time being, shall, with all due solemnity, cause the said Commission under the Great Seal of Canada, appointing him Lieutenant-Governor, to be read and published in the presence of the Chief Justice for the time being or other Judge of the Supreme Court (*or, as the case may be*) of the said Province and of the members of the Executive Council in the said Province.

II. And I do further declare my pleasure to be the Lieutenant-Governor and every other officer appointed to administer the Government of the said Province, shall take the oath of

(2) See the book referred to in the previous note. Professor James McL. Hendry deals with the office of the Lieutenant-Governor and the B.N.A. Act, 1867, the character of the office prior to 1892, judicial views since 1892, the dual capacity of Lieutenant-Governors in relation to functions, principles governing assent or withholding assent to bills or reserving bills and finally the extent of the powers of the Lieutenant-Governor.

See also *The Office of Lieutenant-Governor* by Professor John T. Saywell, University of Toronto Press, 1957.

And *Disallowance and Reservation of Provincial Legislation* by G. V. La Forest of the Department of Justice, March 1955.

And also *Dominion and Provincial Legislation 1867-1895*, and Volume II *Provincial Legislation, 1896-1920* compiled by the Parliamentary Council and the Assistant to the Parliamentary Council (Queen's Printer).

allegiance in the form provided by the said Act, and likewise that he or they shall take the usual oaths for the due execution of the office of Lieutenant-Governor, which oaths the said Chief Justice for the time being of the said Province (*or Court, as the case may be*), or in his absence, or in the event of his being otherwise incapacitated any Judge of the Supreme Court (*or other Court, as the case may be*) of the said Province, or in the case of emergency any one duly commissioned by me, shall and is hereby required to tender or administer unto him or them.

III. And I do authorize and require the Lieutenant-Governor, from time to time, to administer to all and every person or persons, to whom he is by the said Act directed to administer the same, the said oath of allegiance and generally to administer such other oath or oaths as he lawfully may, and as may from time to time be prescribed by any Laws or Statutes in that behalf provided.

IV. The Lieutenant-Governor is to take care that all Laws assented to by him in my name, or reserved for signification of my pleasure thereon, shall, when transmitted by him, be fairly abstracted in the margin, and be accompanied in such cases as may seem to him necessary, with such explanatory observations as may be required to exhibit the reasons and occasions for proposing such laws.

V. The Lieutenant-Governor shall, within ten days after the prorogation of the Legislature or after adjournment of the Legislature for a period of more than ten days or for an indefinite period, send an authentic copy of each Act to which he has assented during the session of the Legislature or during the session of the Legislature prior to the commencement of the adjournment, as the case may be, to the Secretary of State of Canada.

VI. The Lieutenant-Governor, on receipt of a copy of an Order in Council disallowing an Act with my certificate of the date on which the Act was received by me, shall forthwith make proclamation in the said Province of such certificate, and of the disallowance of the said Act.

VII. The Lieutenant-Governor shall not quit the Province without having first obtained leave from me for so doing, under my Sign Manual, or through the Secretary of State of Canada.

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